# 2020 Trade Policy Agenda and 2019 Annual Report

OF THE PRESIDENT OF THE UNITED STATES
ON THE TRADE AGREEMENTS PROGRAM

UNITED STATES TRADE REPRESENTATIVE

# 2020 Trade Policy Agenda
# and
# 2019 Annual Report

of the President of the United States
on the Trade Agreements Program

Office of the United States Trade Representative
Ambassador Robert E. Lighthizer

# FOREWORD

The 2020 Trade Policy Agenda and 2019 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 IV and Annex III of this document meet the requirements of Sections 122 and 124 of the Uruguay Round Agreements Act with respect to the World Trade Organization. The discussion on the Generalized System of Preferences in Chapter II satisfies the reporting requirement contained in the Consolidated Appropriations Act, 2018 (Pub. L. 115-141, div. M, title V, § 501(c)). This report includes an annex listing trade agreements entered into by the United States since 1984. Goods trade data are for full year 2019. Full-year services data by country are only available through 2018.

The Office of the United States Trade Representative is responsible for the preparation of this report and gratefully acknowledges the contributions of all USTR staff to its writing and production. We note, in particular, the contributions of Sarah Donofrio, Sierra Janik, and Spencer Smith. Appreciation is extended to partner Trade Policy Staff Committee agencies.

February 2020

# LIST OF FREQUENTLY USED ACRONYMS

| | |
|---|---|
| AD | Antidumping |
| AGOA | African Growth and Opportunity Act |
| APEC | Asia-Pacific Economic Cooperation |
| ASEAN | Association of Southeast Asian Nations |
| BIT | Bilateral Investment Treaty |
| 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 |
| CVD | Countervailing Duty |
| DDA | Doha Development Agenda |
| DOL | U.S. Department of Labor |
| DSB | WTO Dispute Settlement Body |
| DSU | WTO Dispute Settlement Understanding |
| EU | European Union |
| FOIA | Freedom of Information Act |
| GATT | General Agreement on Tariffs and Trade |
| GATS | General Agreement on Trade in Services |
| GDP | Gross Domestic Product |
| GI | Geographical Indications |
| GPA | WTO Agreement on Government Procurement |
| GSP | Generalized System of Preferences |
| ICTIME | Interagency Center on Trade Implementation, Monitoring, and Enforcement |
| ILO | International Labor Organization |
| IP | Intellectual Property |
| ITA | WTO Information Technology Agreement |
| KORUS | United States-Korea Free Trade Agreement |
| MFN | Most-Favored Nation |
| MOU | Memorandum of Understanding |
| NAFTA | North American Free Trade Agreement |
| OECD | The Organization for Economic Cooperation and Development |
| SBA | U.S. Small Business Administration |
| SME | Small and Medium-Sized Enterprise |
| SPS | Sanitary and Phytosanitary |
| TAA | Trade Adjustment Assistance |
| TBT | Technical Barriers to Trade |
| TFA | WTO Trade Facilitation Agreement |
| TIFA | Trade and Investment Framework Agreement |
| TPRG | Trade Policy Review Group |

| | |
|---|---|
| TPSC | Trade Policy Staff Committee |
| TRIMS | Trade-Related Investment Measures |
| TRIPS | Trade-Related Aspects of Intellectual Property Rights |
| TRQ | Tariff-Rate Quota |
| URAA | Uruguay Round Agreements Act |
| USAID | U.S. Agency for International Development |
| USMCA | United States-Mexico-Canada Agreement |
| USTR | United States Trade Representative |
| WTO | World Trade Organization |

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# THE PRESIDENT'S
# 2020 TRADE POLICY AGENDA

# THE PRESIDENT'S TRADE POLICY AGENDA

## INTRODUCTION

President Trump promised to make fundamental changes to U.S. trade policy in order to achieve results that benefit all Americans, and the President has kept that promise. Actions taken to implement the President's trade policy led to a historic year for American trade. Over the last year:

- The President confronted China's unfair trade policies and practices head-on and imposed substantial tariffs, resulting in a groundbreaking Phase One trade agreement with China. This agreement obligates China to take actions to cease its unfair trade policies and practices that harm U.S. business, workers, farmers, and ranchers. At the same time, China has committed to significantly increase its purchase of goods and services from the United States. The United States continues to maintain tariffs on approximately $370 billion in goods from China and has express authority under the agreement to take additional action to enforce China's compliance.

- The President signed into law the United States–Mexico–Canada Agreement (USMCA), an agreement that rebalances the U.S. trade relationship with Mexico and Canada, implements groundbreaking provisions for electronic commerce, establishes robust protections for labor and environment, and incentivizes manufacturing in the United States.

- The United States entered into two separate agreements with Japan, the world's third-largest economy, that will create massive export opportunities for American farmers and boost the approximately $40 billion in digital trade currently between the two countries.

- The United States won the largest award in World Trade Organization (WTO) history, obtaining the right to impose countermeasures on $7.5 billion of goods from the European Union (EU) in response to the harm to U.S. interests caused by EU Member States' subsidies to Airbus.

- The United States initiated action against France for its unfair and discriminatory "digital services tax" that targeted American technology companies, resulting in an agreement to suspend collection of the tax.

- The United States brought about a fundamental rethinking of the World Trade Organization, an institution that has strayed far from its original mission and purpose.

Implementation of the President's trade agenda has benefitted all Americans. The economy is strong, unemployment is at an all-time low, increasing numbers of Americans who left the job market are now working again, and wage growth has accelerated.

Perhaps most significantly, however, the President's trade agenda has helped those Americans most harmed by the failed policies of the last 25 years. In the decades following the North American Free Trade Agreement's (NAFTA) implementation and China's accession to the WTO, America lost 1 in 4 manufacturing jobs, more than 60,000 American factories were shut down, and millions of high-paying U.S. jobs were shipped overseas. President Trump committed to ending disastrous trade deals of the past, and he delivered.

Since President Trump's election, the working class has seen tremendous growth. The United States is experiencing a blue-collar boom, driven by trade policy and other economic initiatives of the Administration:

- Under the Trump Administration, net worth for the bottom 50 percent of households has increased at an annual rate 15 times higher than the average growth seen under the three prior administrations' expansion periods.

- At more than $66,000, real median household income is now at the highest level ever recorded.

- Wealth inequality has finally declined, as the share of net worth held by the bottom 50 percent of households has increased while the share held by the top one percent of households has decreased.

- While 15,000 manufacturing jobs were lost in the 12 months prior to President Trump's election, more than 500,000 manufacturing jobs have been added to the American economy since then.

- Wages are growing faster for nearly all groups, but historically disadvantaged groups are seeing the fastest growth. Since President Trump took office:

    - Average wage growth for Americans without a bachelor's degree has outpaced wage growth for those with a bachelor's degree or higher.

    - Average wage growth for individuals at the 10$^{th}$ percentile of the income distribution has outpaced wage growth for individuals at the 90$^{th}$ percentile.

    - Average wage growth for African Americans and Hispanics has outpaced overall average wage growth.

These results are the opposite of those observed over the previous administration's expansion period, where historically advantaged groups saw higher wage gains. When measured as the share of income earned by the top 20 percent, income inequality fell in 2018 by the largest amount in over a decade.

These facts confirm the United States' unprecedented blue-collar boom. Increased wealth for the bottom half of American households, faster wage growth for historically disadvantaged Americans, and falling welfare enrollment as incomes rise and people come off the labor market's sidelines—these are the results of President Trump's pro-growth, pro-worker trade policies.

Going forward, President Trump will continue to rebalance America's relationship with its trading partners, aggressively enforce our trade laws, and take prompt action in response to unfair trade practices by other nations. The Administration's goals for the next year include:

- Robust enforcement of commitments by our trading partners in trade agreements, including the USMCA, the China Phase One Agreement, and WTO agreements.

- New trade agreements with important partners, including the United Kingdom and the European Union, as well as Kenya, which would be the United States' first free trade agreement in sub-Saharan Africa.

- Conduct further negotiations with Japan for a comprehensive trade agreement that results in a more fair and reciprocal trade and economic relationship.

- Pursue a Phase Two Agreement with China that continues to require structural reforms and other changes to China's economic and trade regime.

- Limiting the WTO to its original purpose of serving as a forum for nations to negotiate trade agreements, monitor compliance with agreements, and facilitate the resolution of international trade disputes.

# PROMISES MADE AND PROMISES KEPT: THE PRESIDENT'S 2020 TRADE AGENDA

When President Trump assumed Office in January 2017, he declared that changing the direction of U.S. trade policy was a key priority. President Trump identified the following goals: (i) replace NAFTA with a balanced and modern trade agreement with Mexico and Canada; (ii) combat China's unfair trade policies and practices, which have harmed the United States for years, and move toward a more balanced trade relationship; (iii) vigorously enforce U.S. trade laws and provisions in existing U.S. trade agreements; (iv) enter into new, beneficial trade agreements with our largest trade partners; and (v) address the systemic problems at the World Trade Organization that have undermined the effectiveness of trade agreements and trade laws. The President has delivered results on all of these goals and will continue in 2020 to pursue results in international trade that benefit all Americans.

## A. The President Kept His Promises and Achieved Historic Successes

By placing trade at the center of his agenda, the President achieved more trade successes over the last year than prior administrations achieved in a typical decade. Most significantly, President Trump confronted China and its unfair trade practices, after years of little more than talk, and achieved an enforceable agreement. The Phase One Agreement requires China to take significant concrete steps to cease its unfair practices and rebalance the trade relationship by committing to substantial purchases of U.S. goods and services. The replacement of NAFTA with the USMCA, an agreement that provides incentives for U.S. manufacturing and makes crucial changes to reflect the modern economy, was also a signal achievement of the President. Finally, the Administration took action on numerous trade issues—large and small—to further the President's agenda of a trade policy that benefits all Americans.

### 1. The President Entered Into a Historic Phase One Agreement with China that Combats Unfair Trade Policies and Practices and Rebalances the U.S.-China Trade Relationship

When President Trump assumed office, the United States had suffered from China's unfair trade policies and practices for decades. These unfair policies and practices harmed U.S. economic interests and undermined American manufacturing, services, and innovation. The Administration took specific action to combat certain of China's unfair practices by initiating an investigation of China under Section 301 of the Trade Act of 1974.

The investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation found four categories of acts, policies, and practices of China that unfairly result in the transfer of technologies and intellectual property (IP) from U.S. companies to China. These policies harm U.S. businesses and workers and threaten the long-term competitiveness of the United States.

Based on President Trump's direction, USTR took a series of actions in response to China's harmful acts, policies, and practices, including imposing additional duties on certain products from China and pursuing dispute settlement at the World Trade Organization (WTO). In 2018, the United States imposed additional 25 percent tariffs on approximately $50 billion of goods imported from China and 10 percent tariffs on an additional $200 billion. Throughout 2018 and early 2019, the United States and China met on numerous occasions in efforts to resolve U.S. complaints about China's longstanding unfair practices. Those efforts suffered a blow in May 2019 when, as the two parties appeared on the cusp of an agreement, the Chinese government reneged on negotiated outcomes and hardened its positions. In response, the United States

increased the tariffs on $200 billion of Chinese imports to 25 percent from 10 percent and added 15 percent tariffs on an additional approximately $120 billion of Chinese imports.

In order to mitigate harm to U.S. workers and businesses that could result from certain tariffs, USTR implemented a comprehensive exclusions process, whereby businesses could seek to exclude certain products from tariff increases. USTR bases exclusion determinations on an assessment of the extent to which the product implicated China's "Made in China 2025" program, was not readily available in the United States or outside of China, or the potential that the tariff would cause severe economic harm to U.S. workers, businesses, or other interests. In 2019, USTR processed more than 25,000 exclusion requests, granting more than 5,000 exclusions covering billions of dollars of imports.

In the late Summer and Fall of 2019, China re-engaged with the United States, and the parties commenced intensive discussions aimed at resolving numerous long-standing U.S. concerns. On December 13, 2019, the Administration announced the conclusion of the U.S.–China Economic and Trade Agreement (Phase One Agreement). President Trump and Vice Premier Liu He signed the Phase One Agreement on January 15, 2020.

The Phase One Agreement with China requires major structural changes to China's behavior with respect to intellectual property protection, technology transfer, agricultural standards, financial services, and currency. Specifically:

- The Phase One Agreement includes enforceable obligations on trade secrets, patents, trademarks, geographical indications, pharmaceutical-related intellectual property, and enforcement against pirated and counterfeit goods.

- The Phase One Agreement prohibits China from forcing or pressuring U.S. companies to turn over their technology as a condition for market access, to gain administrative or licensing approvals, or to receive advantages from the Chinese government. Any transfer of technology must be voluntary and take place on market terms. In addition, China has committed not to direct or support outbound investments aimed at acquiring foreign technology to meet its market-distorting industrial plans.

- The agriculture chapter of the Agreement addresses a number of structural barriers to U.S. exports. China must implement a fair, predictable, science-based and risk-based regulatory process that will facilitate exports of U.S. meat, poultry, seafood, rice, dairy, infant formula, horticultural products, animal feed, pet food, and more. Importantly, this includes requirements to approve certain U.S. biotech traits more promptly.

- The Phase One Agreement also removes a wide range of discriminatory regulatory requirements and limitations that have stifled U.S. companies seeking to operate in China's financial services market. This change will allow U.S. banks, insurance companies, credit rating services, electronic payment services and other financial services to compete on a more level playing field.

- The agreement tackles China's unfair currency practices, with enforceable commitments against currency devaluations and the targeting of exchange rates.

In addition to requiring China to make structural changes, the Phase One Agreement expands trade, with enforceable commitments by China to increase purchases of U.S. exports by no less than $200 billion over the next two years in four major areas: manufactured goods, agriculture, energy, and services. Both sides

expect that China's increased imports of U.S. goods and services will continue on this trajectory beyond 2021.

The United States agreed to reduce the increased tariff rate on the $120 billion in Chinese goods from 15 percent to 7.5 percent, but it maintained the additional tariffs on an additional $250 billion in Chinese goods at 25 percent.

Crucially, the Phase One Agreement establishes a strong dispute resolution system that ensures prompt and effective implementation and enforcement of the commitments in the agreement. The United States is establishing a Bilateral Evaluation and Dispute Resolution Office to assess implementation and attempt to resolve disputes. If a dispute is not resolved, the complaining party has the right to take action, including by suspending an obligation under the Agreement or adopting a trade measure in a proportionate way.

Finally, the United States and China committed to pursuing a Phase Two Agreement that would address other important aspects of the trade relationship, including China's subsidization of its industries and cyber-theft.

## 2. The President Kept His Promise to Replace NAFTA with a Modern and Balanced Trade Agreement between the United States and Canada and Mexico

On January 29, 2020, President Trump signed into law the historic United States–Mexico–Canada Agreement (USMCA). The enactment of the USMCA is the fulfillment of President Trump's promise to replace the outdated North American Free Trade Agreement (NAFTA) with a 21st century agreement that will lead to fairer trade and robust economic growth in North America. Negotiated over the course of two years, the USMCA exemplifies the President's vision for an America First trade policy. The USMCA will create more manufacturing jobs, defend America's competitive advantage in technology and innovation, protect workers and the environment, and secure greater market access for America's businesses, farmers and ranchers.

The USMCA resulted from more than two years of hard work by the Administration, first in negotiations with Canada and Mexico, and then in lengthy consultations and negotiations with the United States Congress. The resulting agreement is a model for future United States trade agreements.

Among the key provisions of the USMCA are the following:

- *Increasing Regional Value Content*: The USMCA encourages U.S. manufacturing and regional economic growth by requiring that 75 percent of auto content be made in North America. This is a substantial increase from the 62.5 percent of regional value content required under NAFTA.

- *Creating New Labor Value Content*: The USMCA uses trade rules to incentivize production in the United States by requiring that 40 percent to 45 percent of auto content be made by workers earning at least $16 per hour.

- *Strongest Labor Provisions of Any Trade Agreement*: The USMCA brings labor obligations into the core of the agreement and makes them fully enforceable. Mexico has agreed to overhaul its system of labor justice so that workers have the right to secret ballot votes to elect union leadership, challenge union leadership, and approve new and existing collective bargaining agreements. USMCA also includes an innovative "Rapid Response" dispute settlement mechanism to ensure compliance with the Labor Chapter's obligations, including Mexico's labor reform commitments.

- *Expanded Market Access for American Food and Agricultural Products*: Under USMCA, America's dairy farmers will have new export opportunities to sell dairy products into Canada, and Canada will provide new access for United States chicken and eggs and increase U.S. access for turkey. Under a modernized agreement, all other tariffs on agricultural products traded between the United States and Mexico will remain at zero.

- *Effectively Supporting Trade in Manufactured Goods*: The USMCA's Market Access chapter will more effectively support trade in manufactured goods by removing provisions in NAFTA that are no longer relevant, updating key references, and affirming commitments that have been phased in from NAFTA.

- *Strengthening Supply Chains to Provide New Market Opportunities for the Textile and Apparel Sector*: USMCA's new provisions on textiles incentivize greater North American production in textiles and apparel trade, strengthen customs enforcement, and facilitate broader consultation and cooperation among the Parties on issues related to textiles and apparel trade.

- *Protections for U.S. Innovators and Creators*: The USMCA chapter on Intellectual Property provides strong, effective protection and enforcement of IP rights that are critical to driving innovation, creating economic growth, and supporting American jobs.

- *Digital Trade*: The USMCA contains the strongest disciplines on digital trade of any international agreement. The Digital Trade chapter includes prohibiting data localization measures that restrict where data can be stored and processed, and extends these rules to financial service suppliers in circumstances where a financial regulator has the access to data needed to fulfill its regulatory and supervisory mandate. These disciplines provide a firm foundation for the expansion of trade and investment in the innovative products and services where the United States already has a competitive advantage.

- *Preventing Discrimination Against U.S. Financial Services*: The USMCA contains strong commitments to facilitate a level playing field for U.S. service suppliers, and further liberalizes financial services markets through a strong Financial Services chapter.

- *Currency Transparency Commitments*: The USMCA addresses unfair currency practices by requiring high-standard commitments to refrain from competitive devaluations and targeting exchange rates, while significantly increasing transparency and providing mechanisms for accountability.

- *Strongest, Most Enforceable Environmental Obligations of Any Trade Agreement*: Like the Labor chapter, the Environment chapter of the USMCA brings all environmental provisions into the core of the agreement and makes them enforceable. The USMCA includes commitments to implement key multilateral environmental agreements to which the United States is a party, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Montreal Protocol on Ozone Depleting Substances. The USMCA also addresses key environmental challenges such as illegal, unreported, and unregulated fishing and harmful fisheries subsidies. USMCA commits the United States, Canada and Mexico to take actions to combat and cooperate to prevent trafficking in timber and fish and other wildlife. For the first time in a U.S. trade agreement, the USMCA also addresses other pressing environmental issues such as air quality and marine litter.

These trade victories, and many others, in the USMCA are the result of President Trump's determination to end NAFTA and create a North American trade agreement that helps American workers, farmers, ranchers, and businesses. It is also the result of extensive consultations among the Office of the United States Trade Representative, Members of Congress, and stakeholders in fulfillment of Trade Promotion Authority requirements. Since the United States launched negotiations with Mexico and Canada in August 2017, USTR invested an astounding 3,108 work-hours in consultations with Congress. The contributions made by both Republicans and Democrats made the USMCA a truly bipartisan success.

## 3. The United States Entered into Two Important Agreements with Japan

The United States and Japan are the world's first and third largest national economies, respectively, and represent about 30 percent of global gross domestic product. In 2019, the United States and Japan signed two trade agreements that represent early achievements from negotiations in the areas of market access and digital trade.

### a. *The United States–Japan Trade Agreement*

The United States–Japan Trade Agreement liberalizes market access between the two countries. The Agreement eliminates or reduces tariffs for over $7 billion in U.S. food and agricultural exports. When fully implemented, more than 90 percent of U.S. food and agricultural products imported into Japan will either be duty free or receive preferential tariff access. For example, under the agreement, Japan will:

- Reduce tariffs on products such as fresh and frozen beef and pork.
- Provide a country-specific quota for wheat and wheat products.
- Reduce the mark-up on imported U.S. wheat and barley.
- Immediately eliminate tariffs for almonds, walnuts, blueberries, cranberries, sweet corn, grain sorghum, broccoli, and more.
- Provide staged tariff elimination for products such as cheeses, processed pork, poultry, ethanol, wine, frozen potatoes, oranges, fresh cherries, egg products, and tomato paste.

For the many products covered under the agreement, it gives American farmers and ranchers the same advantage as CP-TPP countries selling into the Japanese market.

The United States will provide tariff elimination or reduction on 42 tariff lines for agricultural imports from Japan valued at $40 million in 2018. The United States will also reduce or eliminate tariffs on certain industrial goods from Japan, such as certain machine tools, fasteners, steam turbines, bicycles, bicycle parts, and musical instruments.

### b. *The United States–Japan Digital Trade Agreement*

As two of the most digitally advanced countries in the world, the United States and Japan share a deep, common interest in establishing enforceable rules that support digitally-enabled suppliers from every sector of their economies to innovate and prosper and in setting standards for other economies to emulate.

The United States–Japan Digital Trade Agreement parallels the USMCA as the most comprehensive and high-standard trade agreement addressing digital trade barriers ever negotiated. This agreement will help

drive economic prosperity, promote fairer and more balanced trade, and help ensure that shared rules support businesses in key sectors where both countries lead the world in innovation.

Key outcomes of this agreement include rules that achieve the following:

- Prohibiting application of customs duties to digital products distributed electronically, such as e-books, videos, music, software, and games.
- Ensuring non-discriminatory treatment of digital products, including coverage of tax measures.
- Ensuring that data can be transferred across borders, by all suppliers, including financial service suppliers.
- Facilitating digital transactions by permitting the use of electronic authentication and electronic signatures, while protecting confidential information of consumers and businesses and guaranteeing that enforceable consumer protections are applied to the digital marketplace.
- Prohibiting data localization measures that restrict where data can be stored and processed and extending these rules to financial service suppliers in circumstances where a financial regulator has the access to data needed to fulfill its regulatory and supervisory mandate.
- Recognizing rules on civil liability with respect to third-party content for Internet platforms that depend on interaction with users.
- Guaranteeing enforceable consumer protections, including for privacy and unsolicited communication, that apply to the digital marketplace and promoting the interoperability of enforcement regimes.

Together, these provisions set predictable rules of the road and encourage a robust market in digital trade between the two countries – developments that will support increased prosperity and well-paying jobs in the United States and Japan.

The United States looks forward to further negotiations with Japan for a comprehensive agreement that addresses remaining tariff and non-tariff barriers and achieves fairer, more balanced trade.

## 4. The Administration Has Actively Enforced Trade Agreement Commitments and U.S. Trade Laws

Strong and effective enforcement of trade agreement commitments and U.S. trade laws is a key priority of the President's trade agenda. USTR has continued to pursue cases against foreign trade partners at the World Trade Organization when those trade partners do not comply with WTO commitments. In fact, in 2019 USTR achieved a historic victory in its long-running challenge to unfair European subsidies of Airbus. Under the Trump Administration, USTR has also enforced other trade statutes that had been rarely utilized in the two decades prior to this Administration.

### a. *The United States Obtained a Historic WTO Award in the Airbus Dispute*

In 2018, the WTO Appellate Body confirmed that the EU had failed to comply with an earlier finding that it had to withdraw subsidies to Airbus or remove their adverse effects. In response, the United States sought authorization to impose countermeasures commensurate with the harm caused by the EU's subsidies. The

EU challenged the amount of adverse effects and commenced a WTO arbitration to determine the appropriate level of countermeasures. In expectation that the arbitration was nearing its end, the Trade Representative announced the initiation of an investigation in April 2019 to enforce U.S. WTO rights. USTR invited public comment on a proposed action to impose *ad valorem* duties of up to 100 percent on a final list to be drawn from a preliminary list of products imported from the EU.

On October 2, 2019, the WTO Arbitrator issued a report that concluded that the appropriate level of countermeasures is approximately $7.5 billion annually. This is the largest such award in the history of the WTO. Based on the arbitrator's findings, the Trade Representative determined to take action in the form of additional duties at a rate of 10 or 25 percent on large civil aircraft and other products of certain EU Member States with a total annual trade value of $7.5 billion.

While the arbitration over countermeasures was underway, the EU and the Member States commenced a new WTO proceeding, arguing that they had complied by either withdrawing the Airbus subsidies or removing their adverse effects. On December 2, 2019, the WTO panel disagreed and ruled for the United States, finding that the EU actions had in fact expanded the subsidies.

### b. *The United States Took Strong Action Against Foreign Digital Services Taxes that Discriminate Against American Companies*

On March 6, 2019, the government of France released a proposal for a 3 percent levy on revenues that certain companies generate from providing certain digital services to, or aimed at, persons in France (the Digital Services Tax, or the DST). The French parliament passed a final DST bill on July 4, and President Emmanuel Macron signed the bill into law on July 24. The DST applies to revenues from targeted digital advertising and certain "digital interface" services (*e.g.*, online marketplaces for goods and services). The tax applies only to companies with total annual revenues from the covered services of at least €750 million globally and €25 million in France. The tax applied beginning January 1, 2019.

On July 10, 2019, USTR initiated an investigation of the French DST. The notice of initiation in the *Federal Register* solicited written comments on several aspects of the DST. USTR and the Section 301 Committee convened a public hearing on August 19, 2019. Under Section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the government of France regarding the issues involved in the investigation. Consultations were held on November 14, 2019.

Based on information obtained during the investigation, USTR and the Section 301 Committee prepared a report setting out findings of the investigation. The U.S. Trade Representative determined under sections 301(b) and 304(a) of the Trade Act that the French DST is unreasonable or discriminatory and burdens or restricts U.S. commerce and is thus actionable under section 301(b) of the Trade Act. In particular, the U.S. Trade Representative determined that the French DST is intended to, and by its structure and operation does, discriminate against U.S. digital companies. Further, USTR determined that the DST's retroactive application, application to revenue rather than income, extraterritoriality, and application to only a small group of digital companies contravene prevailing international tax principles and are particularly burdensome for covered U.S. companies.

On December 6, USTR issued a *Federal Register* notice explaining the determination and soliciting public comments on a proposed trade action of additional duties on certain French products, as well as on the option of imposing fees or restrictions on French services. USTR and the Section 301 Committee convened a public hearing on January 7 and 8, 2020. Since the United States launched this action, France has committed not to collect the DST while negotiations on international taxation are ongoing at the OECD this year.

USTR is continuing to analyze measures of other countries that are similar to the French DST and all legal options for responding to such measures. This may include launching investigations of other unilateral DSTs under section 301 of the Trade Act.

### c. *The United States and EU Entered Into an Agreement on Market Access for U.S. Beef Exports*

In August 2019, the United States entered into an agreement with the EU that increases U.S. access to Europe's beef market through a duty-free tariff rate quota (TRQ) exclusively for the United States. The U.S.-only TRQ will provide U.S. ranchers access to a 35,000 metric ton duty-free annual quota that is estimated to be worth an estimated $350 million to $500 million at the end of the seven-year phase-in period.

The agreement stemmed from a culmination of years of litigation at the WTO by the United States that successfully challenged a non-science-based ban on the use of hormones in cattle production.

### d. *The United States Obtained Other Significant Litigation Victories at the WTO*

USTR had two major victories against China on agriculture disputes in 2019. In February, the United States won an important WTO dispute on China's excessive and trade distorting domestic support to its grain producers. The WTO panel found that China's market price support policies for wheat and rice were far in excess of the levels China agreed to when it joined the WTO. China's market price support policy artificially raises Chinese prices for grains above market levels, creating non-market incentives for increased Chinese production of agricultural products and reduced imports.

On April 18, the United States won a WTO dispute challenging China's administration of its tariff-rate quotas (TRQ) for wheat, corn, and rice. The panel found that China's administration is not transparent, predictable, or fair, and that it inhibits the filling of these TRQs. USDA estimates that if China's TRQs had been filled, China would have imported as much as $3.5 billion worth of corn, wheat and rice in 2015 alone. In the context of negotiations with China for the Phase One Agreement, China agreed not to appeal either of these reports and agreed to come into compliance within a short period of time.

USTR also achieved success in a challenge to India's export subsidies. USTR launched this dispute in 2017 against India's prohibited export subsidies for a variety of products, including steel, pharmaceuticals, chemicals, information technology products, textiles, and apparel. In October 2019, the WTO panel found for the United States with respect to all five of the programs that were challenged. USTR estimates the value of the subsidies provided by these programs to be approximately $7 billion annually. India appealed virtually the entire decision, and USTR is continuing to pursue its interests in this matter.

USTR is also vigorously pursuing disputes launched against five WTO Members that imposed retaliatory duties on U.S. products in response to the President's action on steel and aluminum under Section 232 of the Trade Expansion Act of 1962. These Members—China, the EU, Turkey, Russia, and India—have enacted contrived "safeguards rebalancing" measures not permitted under WTO rules.

### e. *USTR Took Actions to Enforce Free-Trade Agreements*

For too long, the United States failed to take steps to ensure that other nations followed through on the promises they made in trade agreements with the United States, either turning a blind eye to noncompliance or engaging in endless years of talk but no action. That failed approach has ended, and the United States will aggressively enforce its trade agreements. Over the last year, the United States initiated two actions to enforce environmental provisions in its free trade agreements. In July, the United States took action to enforce the United States–Peru Trade Agreement and blocked timber imports from a Peruvian company

based on illegally harvested timber found in its supply chain. In September, USTR initiated the first-ever environmental consultations under the United States–Korea Free Trade Agreement (KORUS) in an effort to combat illegal fishing. In these cases, our trading partners came into compliance with their obligations rather than face further trade action by the United States.

### f. *Utilizing Safeguard Laws to Support U.S. Companies Harmed by Import Surges*

Section 201 of the Trade Act of 1974 allows the United States to introduce temporary "safeguards" as relief to a domestic industry that has been harmed by increased imports. The Administration took two such safeguard actions in 2018. Specifically, after an investigation, the International Trade Commission determined that increased imports of solar products and residential washing machines caused serious injury to U.S. producers. President Trump exercised his authority under Section 201 and increased tariffs on solar cells and modules and on imported washing machines. Both USTR and the International Trade Commission continued to monitor these safeguards in 2019, and the President made certain modifications to the residential washing machines safeguard to improve its effectiveness.

### g. *Ensuring Appropriate Application of Trade Preference Programs*

The Administration took additional action in 2019 to ensure that U.S. trade preference programs are applied appropriately and in a manner that advances U.S. interests. The United States terminated preference programs for India and Turkey under the General System of Preferences (GSP) program because those two countries no longer met the criteria for inclusion in the GSP program. Specifically, an investigation led by USTR to findings that India had implemented a wide variety of trade barriers that harmed United States commerce and was failing to provide the United States with reasonable assurance of access to its markets. Turkey graduated from GSP eligibility based upon a number of factors that showed that Turkey had attained a higher level of economic development and is competitive enough to no longer need preferential access to the U.S. market. The Administration also removed a third of Thailand's GSP benefits for failure to fully comply with the labor standards criterion and successfully closed cases related to minimum working age in Bolivia, labor standards in Iraq, and ratification of international copyright treaties in Uzbekistan and partially closed a case related to protection of IP rights in Ukraine.

USTR is continuing the program the Administration launched in 2017 to ensure that all 119 GSP beneficiary countries are assessed for compliance with the program's 15 statutory criteria. Over the last year, the United States held hearings on GSP programs for 11 countries undergoing formal reviews of benefits under the criteria dealing with labor standards, market access, intellectual property rights protection, and arbitral awards.

### h. *The Administration Utilized Trade Remedy Laws to Benefit American Industry*

The Administration has also continued its robust enforcement of U.S. antidumping and countervailing duty laws. In 2019, the Department of Commerce initiated 33 antidumping (AD) investigations and issued 30 antidumping orders. Commerce initiated 20 countervailing duty (CVD) investigations and issued 17 CVD orders. The AD/CVD orders concern a wide range of imported products, including large diameter welded pipe, steel trailer wheels, rubber bands, strontium chromate, quartz, glycine, and others.

The AD/CVD law includes a *"de minimis"* provision and provides a more generous *de minimis* for least-developed or developing countries. Section 771(36) of the Tariff Act of 1930 directs USTR to make these designations and to update them as necessary, based on "economic, trade, and other factors the Trade Representative considers appropriate." This list had last been updated in 1998, and in February 2020, USTR published in the *Federal Register* an updated list of WTO Members that, for purposes of U.S. CVD investigations, qualify as least developed or developing. The designation entitles countries to lower

thresholds in determining whether countervailable subsidies are *de minimis* or whether subsidized import volumes are negligible.

USTR took this action to account for developments since USTR last published the list in 1998, more than 20 years ago. In designating developing Members, USTR took into consideration: (i) World Bank designation as high-income based on gross national income; (ii) share of world trade greater than 0.5 percent; (iii) EU membership; (iv) OECD membership or application for membership; (v) G20 membership; and (vi) whether in its WTO accession the Member had declared itself to be a developing country.

## 5. The United States Led Efforts to Change the World Trade Organization

The United States has engaged extensively with WTO Members on a range of issues, including concerns with WTO dispute settlement, and has worked to facilitate implementation of existing WTO rules, bring forward new ideas and proposals on reform, and advance ongoing negotiations.

### a. *The United States Directed Attention to the Overreach and Rule-Breaking of the WTO's Appellate Body*

For more than two decades, presidents and Members of Congress of both parties in the United States have raised concerns about the functioning of the WTO's dispute settlement system. The concerns have focused on the WTO's Appellate Body. The Appellate Body was created by WTO Members for a limited purpose, but over time it ceased to comply with WTO rules, expanded its role, misinterpreted WTO agreements, and undermined the authority of WTO Members and the WTO's role as a forum for negotiations. Unfortunately, years of talking about these problems accomplished little. The Trump Administration took action by exercising its right as a WTO Member to decline to approve new Appellate Body members, forcing the WTO to engage in a long-overdue debate about the role of the Appellate Body. Throughout 2019, the United States submitted numerous statements to the WTO setting forth the myriad ways the Appellate Body had gone astray.

These efforts culminated recently with the issuance of USTR's Report on the Appellate Body of the World Trade Organization. The Report first detailed the Appellate Body's repeated failure to apply the rules of the WTO agreements in a manner that adheres to the text of those agreements as negotiated and agreed by WTO Members. For example:

- The Appellate Body consistently ignored deadlines imposed on it by Members.
- The Appellate Body allowed former Appellate Body members to rule on disputes long after their terms had ended.
- The Appellate Body second-guessed factual determinations by WTO dispute settlement panels, in clear violation of a limit placed on the body by Members.
- The Appellate Body sought to create a type of "WTO jurisprudence" by declaring that its decisions should be treated as precedent and opining on matters within the authority of WTO Members and outside the authority of the Appellate Body.

The Report also detailed ways in which the Appellate Body's persistent overreaching had taken away Members' rights and imposed new obligations on those Members through erroneous interpretations of WTO agreements. For example:

- The Appellate Body interpreted the term "public body" in an unduly narrow fashion that threatened the ability of market economies to counteract trade-distorting subsidies provided by non-market economies.

- The Appellate Body intruded on Members' legitimate policy space by essentially converting a non-discrimination obligation for regulations into a "detrimental impact" test.

- The Appellate Body consistently limited trade remedies, undermining the ability of the United States and other countries to counteract injurious dumping and subsidies.

The United States presented the results of its study to other WTO Members, Congress, and the United States public in order to compel a discussion on how the WTO ended up at this unsustainable position, in hopes that WTO Members may reach agreement on a way forward that will restore confidence in the WTO and a fair trading system.

**b. *The United States Pushed Improvements in Transparency and Compliance with Notification Obligations.***

A key reform initiative of the United States is improving transparency and compliance with basic notification obligations. It is difficult, if not impossible, to negotiate new rules on issues like agricultural subsidies or industrial subsidies when WTO Members do not have data on what the largest subsidizers in the world are doing. To get this kind of information, WTO Members need to fulfill their existing notification obligations. Unfortunately, compliance has been woefully inadequate.

The United States was the first WTO Member to table a transparency proposal that establishes appropriate consequences for chronic non-compliance with existing notification obligations. Several co-sponsors have now joined the proposal, and the United States is actively engaging other Members.

One element of the proposal is to encourage the use of counter-notifications. This is a mechanism already used by the United States, but could be more widely employed by others. To improve transparency under the WTO Agreement on Subsidies and Countervailing Measures, the United States has submitted five counter-notifications on China's subsidy programs; nearly 500 Chinese subsidy measures have been counter-notified in total. In addition, the United States has sought transparency in the area of agricultural domestic support by submitting three counter-notifications on India's market price support programs for wheat, rice, cotton and pulses.

**c. *The United States Proposed Updating Special and Differential Designations So That the WTO Can Reflect Current Economic Realities.***

For too long, many WTO Members have sought to opt out of WTO rules or maintain flexibilities they no longer need, rather than embrace these WTO rules as promoting economic development. The rules of the WTO are meant to encourage stronger economic growth for everyone, and Members should want to implement these rules fully if they are truly committed to openness.

The WTO is the only economic institution that permits its Members to self-declare their development status. There are no economic indicators or other measurements of what constitutes a developing country at the WTO. Countries merely need to state that they are "developing," regardless of their GDP or role in global

trade, and are afforded flexibilities from WTO rules, which could take the form of transition periods, higher tariff bindings, or the ability to use prohibited subsidies, among others. The refusal of Members to acknowledge their current status has paralyzed the WTO's negotiation function.

The United States believes that full implementation of WTO rules benefits all WTO Members. While the United States understands that some Members may still require special and differential treatment, this does not justify the current situation at the WTO – where some of the world's richest and most powerful economies have claimed blanket "special and differential treatment" due to their self-declared "developing country" status.

In order to address this critical problem, the United States provided an analytical paper highlighting how the global economic landscape has changed dramatically from 1995 to the present time. The paper shows that a number of countries that plausibly could present themselves at the WTO as "developing" in 1995 can no longer plausibly do so. The paper also demonstrates how the lack of differentiation among self-declared developing countries has severely damaged the institution's negotiating function. Following the distribution of this analytical paper, the United States then submitted a proposed General Council decision that would establish objective criteria for determining whether a WTO Member may continue to avail itself of blanket, open-ended "special and differential treatment" in current and future WTO negotiations. While some countries have responded positively by giving up "developing" status, there is much work left to do on this front.

### d. *The United States Is Working With Other Members on High-Standard E-Commerce and Digital Trade Initiatives.*

The United States is also actively engaged in the Joint Statement Initiative on E-Commerce and Digital Trade where it is advancing proposals that seek to expand access to digital technologies around the world, lower costs for businesses and consumers, and provide a more transparent and predictable trading environment. The United States has proposed rules in all key areas of digital trade, such as those related to cross-border data flows, privacy, source code, and cybersecurity, to help ensure that digital trade can continue to drive economic growth and development and support the success of firms of all sizes, across all sectors, around the world.

Over the past year, the United States has been working closely with other participants in the Joint Statement Initiative to produce a consolidated text that furthers our progress toward a high-standard WTO agreement on digital trade. The United States has been consistent in its view that this agreement must be reciprocal, meaning that all obligations apply to all participants. The United States also considers that this effort can set a positive precedent for future plurilateral efforts at the WTO.

### e. *The United States Is Actively Pushing to Finalize a Robust Multilateral Fisheries Agreement.*

The United States has been engaged to advance the ongoing fisheries subsidies negotiations. A successful outcome in these negotiations has enormous institutional importance for the WTO. As the only active multilateral negotiation at the WTO, it will be a test whether the institution is still capable of achieving meaningful multilateral outcomes. Unfortunately, many Members remain more focused on protecting their fisheries subsidies programs rather than reducing or eliminating them. The United States is aiming high to achieve meaningful reductions in these harmful subsidies and is imposing real constraints on the world's largest subsidizers.

## B. The President Will Continue and Expand an America-First Trade Agenda

Even with all of the successes that President Trump achieved in implementing his trade agenda, there is much more to come. Over the coming year, the Administration will focus on new trade agreements that benefit all Americans, enforcing the nation's trade laws to ensure its trading partners play by the rules, and updating the World Trade Organization.

### 1. The Administration Will Pursue Trade Agreements that Benefit All Americans

In the last two years, the Administration has entered into new trade agreements with Mexico, Canada, China, South Korea, and Japan. These five countries represent more than 50 percent of U.S. goods trade volume. The United States will continue to pursue balanced and reciprocal trade agreements with important trade and strategic partners, including the United Kingdom (UK), the EU, and Kenya. Further negotiations with Japan and China are also on the horizon.

#### a. *United Kingdom*

Throughout 2019, the Trump Administration took numerous steps to pave the way for negotiating a trade agreement with the UK once it exited the EU and regained trade authority. Preparatory steps included review of public comments, a public hearing, and extensive consultations with congressional and trade advisory committees on U.S. negotiating objectives and positions. On February 28, 2019, USTR published detailed negotiating objectives for a United States-United Kingdom trade agreement.

As part of a trade agreement with the United Kingdom, the United States seeks to eliminate certain tariff and non-tariff barriers and aims to achieve a fairer and deeper trade relationship with the UK. The negotiating objectives cover the gamut of trade issues: trade in goods; sanitary and phytosanitary measures; customs and trade facilitation; rules of origin; technical barriers to trade; good regulatory practices; transparency, publication, and administration measures; trade in services, including telecommunications and financial services; digital trade and cross-border data flows; investment; intellectual property; procedural fairness for pharmaceuticals and medical devices; state-owned and controlled enterprises; subsidies; competition policy; labor; environment; anticorruption; trade remedies; government procurement; small and medium-sized enterprises; currency; and dispute settlement.

The United States is committed to concluding trade agreement negotiations with the United Kingdom with timely and substantive results for U.S. consumers, businesses, farmers, ranchers and workers, consistent with U.S. priorities and the negotiating objectives established by Congress in U.S. law.

#### b. *Kenya*

President Trump announced on February 6, 2020 that the United States intends to initiate trade agreement negotiations with the Republic of Kenya. The President's announcement came immediately following a meeting he held at the White House with Kenyan President Uhuru Kenyatta and while the third meeting of the United States–Kenya Trade and Investment Working Group was taking place in Washington. President Trump and President Kenyatta established the Working Group in August 2018 to explore ways to deepen the trade and investment ties between our two countries and to lay the groundwork for a stronger trade relationship in the future.

In pursuing negotiations on a trade agreement with Kenya, the Trump Administration is responding to Congress' support, as expressed in the African Growth and Opportunity Act, to negotiate reciprocal and mutually beneficial trade agreements that serve the interests of both the United States and the countries of sub-Saharan Africa.

A trade agreement between the United States and Kenya will complement Africa's regional integration efforts, including the landmark African Continental Free Trade Area (AfCFTA). The Administration envisions a trade agreement with Kenya that can serve as a model for additional agreements in Africa, leading to a network of agreements that contribute to Africa's regional integration objectives and serve as an enduring foundation to expand U.S.-Africa trade and investment across the continent. At the annual AGOA Forum in *Côte d'Ivoire* in August 2019, the United States and the African Union signed a joint statement concerning the development of the AfCFTA, reflecting our common goal to deepen trade and investment relationships across the continent. In the joint statement, the United States pledged its continued support to help the AfCFTA achieve its fullest potential.

A trade agreement between the United States and Kenya will also be positive for the U.S. economy. Africa is growing rapidly and presents enormous opportunities for U.S. commercial and economic interests. The continent is undergoing a transformative change toward greater regional integration, as evidenced by the AfCFTA, and has among the highest growth rates globally. Africa will account for nearly a fifth of the world's consumers by 2030. The United States seeks to support higher-paying jobs in the United States and grow the U.S. economy by improving our trade and investment opportunities with Kenya and other African countries.

The Trump Administration will consult closely with Congress in developing U.S. negotiating positions with respect to Kenya in order to ensure that they are consistent with Congressional priorities and objectives outlined in Section 102 of the Trade Priorities and Accountability Act.

### c. *European Union*

In a trade agreement with the EU, the United States seeks to eliminate EU barriers to its markets and seeks a more balanced trade relationship. For many years, U.S. businesses have been at a disadvantage in doing business in the EU. Both tariff and non-tariff barriers in the EU have led to increasing, and unsustainable, trade deficits with the EU. In particular, the goods trade deficit with the EU rose to $179 billion in 2019. With a recent change in administration in the EU, and the appointment of a new Trade Commissioner, the United States is hopeful that it can make more progress in the coming year than has been possible in prior years.

### d. *Japan*

The United States and Japan will seek to build on the accomplishments of the past year's agreements and work toward a comprehensive agreement that promotes mutually beneficial, fair, and reciprocal trade. As agreed by our Leaders, the two countries intend to enter into further negotiations on customs duties and other restrictions on trade, barriers to trade in services and investment, and other issues.

### e. *China*

The United States and China will continue negotiations in furtherance of reaching a "Phase Two" trade agreement. Key issues to address will include overcapacity, subsidization, disciplines on China's state-owned enterprises, and cyber theft.

## 2. The Administration Will Continue to Enforce Trade Agreements and U.S. Trade Laws Vigorously

The Trump Administration will continue to aggressively enforce U.S. trade laws to protect the interests of American businesses and workers. USTR will take strong actions to ensure our trading partners compliance with the terms of our trade agreements, including the WTO agreements.

The China Phase One Agreement provides the United States with a process for ensuring that China honors its commitments and for imposing proportionate measures if it fails to do so. USTR will closely monitor China's compliance with the Agreement's provisions and will investigate complaints from American businesses, farmers, and others about China's conduct. Likewise, the USMCA contains a detailed process for enforcing commitments, and USTR will zealously pursue any violations of the agreement. USTR has established working groups focused in particular on potential violations of the labor and environmental provisions of USMCA and will work closely with other agencies to ensure that any potential noncompliance is investigated and, where necessary, acted upon.

As necessary, USTR will pursue formal challenges to acts, policies, or practices of foreign governments that are inconsistent with WTO rules under the dispute settlement system of the WTO and will vigorously defend U.S. actions when challenged by foreign governments. Where appropriate, USTR may take action under Section 301 of the Trade Act of 1974 or recommend action under other statutory authorities granted to the President.

USTR is closely monitoring legislative developments in countries related to "digital services taxes." The United States is engaged in discussions at the OECD to modernize and rationalize taxation of multinational entities in a way that is fair to all countries, their consumers, and their businesses. As noted above, however, some nations have undermined those efforts by imposing unilateral digital services taxes, which often are little more than thinly disguised attacks on successful U.S. technology companies. The United States will continue to enforce its trade laws to prevent the implementation of unfair and discriminatory taxes on U.S. companies.

## 3. The Administration Will Push for a WTO that Reflects Current Economic Realities and Strengthens Free-Market Economies

The United States will continue to lead the effort on WTO reform. In addition to addressing the Appellate Body, seeking a new fisheries agreement, pursuing a digital commerce agreement, enforcing notifications obligations, and seeking reform of "special and differential treatment" for "developing" countries, the United States will advocate for other changes at the WTO that will have the WTO working for its Members. A number of features at the WTO reflect out-of-date assumptions and do not reflect current realities. The United States has already submitted papers focused on market access and tariff issues with the intent of updating our understanding of the current state of agriculture trade and the challenges farmers are facing today. Through our agriculture "reset" efforts, the United States is trying to break the bad habit of taking the same entrenched positions and expecting a different outcome.

The United States will also explore a broader reset at the WTO. The WTO currently locks-in outdated tariff determinations that no longer reflect deliberate policy choices and economic realities. As a result, many countries that have large economies that have developed significantly over the past two decades continue to maintain very high bound tariff rates, far in excess of the rates applied by the United States or to which the United States is bound. For example, the U.S. average bound tariff rate and applied Most Favored Nation rate are both 3.4 percent. In comparison, Brazil's bound tariff rate is 31.4 percent, and its applied rate is 13 percent. India's bound and applied tariff rates are 48.5 percent and 17 percent, respectively.

Members need to fundamentally rethink tariffs and their role, recognizing that commitments on tariffs should reflect current economic conditions.

In addition, the United States will continue to push for a close review of the WTO's budget, which, as demonstrated by egregious Appellate Body member salaries, requires greater scrutiny. The WTO must ensure that there is accountability and that expenditures reflect the priorities of its Members.

Finally, the United States will advocate for changes that allow for additional and more effective plurilateral agreements. There is an urgent need for a new political and legal understanding at the WTO that enables the pursuit of less-than-fully multilateral outcomes while preserving the characteristics of the WTO.

# CONCLUSION

Over the last year, the Trump Administration delivered on the President's promise to pursue a trade policy agenda that puts American workers, farmers, ranchers, and businesses first. The President's aggressive enforcement of trade laws led to a historic trade agreement with China, where, for the first time, China has made specific, enforceable commitments to cease its harmful trade practices. In addition, the President replaced NAFTA with a balanced and modern trade agreement with Canada and Mexico, the USMCA. The President also entered into new agreements with Japan and other allies and pursued an aggressive enforcement strategy. The Administration will continue to implement the President's America-First trade agenda in 2020 by taking aggressive enforcement actions against countries that engage in unfair trading practices and entering into fair and reciprocal agreements with our trading partners that lead to real benefits for all Americans.

# THE WORLD TRADE ORGANIZATION AT TWENTY-FIVE AND U.S. INTERESTS

# THE WORLD TRADE ORGANIZATION AT TWENTY-FIVE AND U.S. INTERESTS

## INTRODUCTION

This report provides an overview of the implementation and enforcement of the WTO Agreement, discusses the accession of new Members to the WTO, analyzes the effects of the WTO Agreement and continued U.S. participation in the WTO on the U.S. national interest – pursuant to 19 U.S. Code § 3535(a) – and highlights areas for reform. As discussed below, the WTO has in many ways failed in achieving its objectives, and has undermined opportunities for U.S. workers and businesses.

The World Trade Organization was established by 124 governments through the Marrakesh Agreement (Agreement) in April 1994, also known as the "Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations." This agreement replaced an earlier world trade framework under the General Agreement on Tariffs and Trade (GATT) established in October 1947.

As stated in the Marrakesh Declaration accompanying the full text of the Agreement, the Ministers of the countries newly party to the Agreement welcomed "the stronger and clearer legal framework…for the conduct of international trade, including a more effective and reliable dispute settlement mechanism; the global reduction by 40 percent of tariffs and wider market-opening agreements on goods and the increased predictability and security represented by a major expansion in the scope of tariff commitments; and the establishment of a multilateral framework of disciplines for trade in services and for the protection of trade-related intellectual property rights."

The Parties to the Agreement further recognized the need for "reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations" in order to realize the Agreement's goals.

Since the enactment of the Agreement, the number of WTO Members has increased to 164. China, the most economically significant of these later entries, joined the WTO in December 2001.

The WTO operates through its more than twenty standing committees and several additional working groups, working parties, and negotiating bodies. These groups meet regularly to allow WTO Members to exchange views, attempt to resolve issues with Members' adherence to WTO commitments, and develop systemic improvements to the organization and the world trade system more broadly.

In terms of recent WTO initiatives, Members agreed at the Eleventh Ministerial Conference (MC11) to several 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. 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 Agreement. India blocked consensus due to its demands for text to be included in the Declaration regarding special and differential treatment and the resurrection and conclusion of the failed Doha Development Agenda (DDA).

Since the Eleventh Ministerial in 2018, the United States has focused on confronting the challenges facing the WTO. However, to date, there has been insufficient Member support for improving compliance with existing rules and agreements, leading to a diminished role for the organization.

## A. The WTO at Twenty-Five and U.S. Interests

The United States—like all WTO Members—participates at the WTO with the intention of realizing the full benefits of WTO membership and enforcing its rights under the various WTO agreements. The United States still believes the WTO has the potential to play an instrumental role in helping make markets more efficient, pursuing balanced trade among the world's economies, and creating greater wealth and prosperity for U.S. citizens.

### 1. *The WTO's Original Mandate, Organizational Structure, and Operation*

#### a. *A Mandate to Liberalize Markets*

As outlined in the organization's founding documents and demonstrated by dozens of Accession Protocols, the WTO is designed to be an organization of countries committed to market-based economics. The driving idea behind the WTO is to promote trade liberalization based on free and fair competition through the adoption of market-based policies and practices across its membership.

As part of the Agreement Establishing the WTO, Members made binding commitments to reduce or eliminate tariff and non-tariff barriers for goods and to further open trade in services. These commitments included lower bound tariff rates; additional recording, reporting, and review requirements for duties and charges beyond established tariff rates; reduced technical barriers to trade, including restrictive or uneven testing, certification, or import licensing procedures; restrictions on balance-of-payment duties; new rules for customs unions; harmonization of rules of origin requirements; mandatory notification and elimination of investment measures that distort trade, such as local content and trade balancing requirements for individual enterprises; recognition of legitimate customs valuation, pre-shipment inspection, and anti-dumping measures; and updated procedures for adjusting waivers and modifying tariff schedules. Members also agreed to several other standardized, market-oriented rules in the areas of government subsidies and countervailing measures, industry safeguards, intellectual property rights and counterfeit goods, and broader trade in services.

The Agreement also made clear that Members – including future Members – must accept the results of the Uruguay Round without exception. Article XVI states, "Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements. No reservations may be made in respect of any provisions of this Agreement."

This strict understanding of Members' commitments was thought essential to fostering harmony and development across the world's economies. As stated in the Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking, which accompanied the Agreement, "The task of achieving harmony between these policies falls primarily on governments at the national level, but their coherence internationally is an important and valuable element in increasing the effectiveness of these policies at [the] national level. The Agreements reached in the Uruguay Round show that all the participating governments recognize the contribution that liberal trading policies can make to the healthy growth and development of their own economies and of the world economy as a whole."

Transparency was also understood to be essential to the WTO's function, as Members need complete information to negotiate effectively. Negotiations rely on trust, and trust relies on the

openness and honesty each country maintains regarding its economic and trade policies. The Declaration continues, "The results of the Uruguay Round ensure an expansion of market access to the benefit of all countries, as well as a framework of strengthened multilateral disciplines for trade. They also guarantee that trade policy will be conducted in a more transparent manner and with greater awareness of the benefits for domestic competitiveness of an open trading environment. The strengthened multilateral trading system emerging from the Uruguay Round has the capacity to provide an improved forum for liberalization, to contribute to more effective surveillance, and to ensure strict observance of multilaterally agreed rules and disciplines. These improvements mean that trade policy can in the future play a more substantial role in ensuring the coherence of global economic policymaking."

b. *A Permanent Forum for Negotiation and Enforcement*

The WTO was conceived to operate primarily as a negotiating forum, in which nations could work to establish a more level playing field in the world trade system. This view is consistent with Article III on the "Functions of the WTO," which states, "The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for implementation of results of such negotiations, as may be decided by the Ministerial Conference."

The procedures and format followed by the Ministerial Conference were set up to continue protecting Members' sovereignty. Article IX states, "The WTO shall continue the practice of decision-making by consensus followed under the GATT 1947." Similarly, Article X states that "any decision by the Ministerial Conference to submit [a] proposed amendment to the Members for acceptance shall be taken by consensus." This high threshold for policy changes is meant to ensure new rules and requirements cannot be imposed on WTO Members without their affirmative agreement.

In addition to its negotiating and monitoring role, the WTO also provides a mechanism to help Members resolve trade disputes. This system was designed with a limited mandate to promote negotiated settlements, not to create new rules that become binding on Members. The dispute resolution function was also designed to be both efficient and deferential to national and municipal laws.

Several provisions in Annex 2 of the Agreement Establishing the WTO illustrate these principles. Article 3 states clearly, "Recommendations and rulings of the Dispute Settlement Body (DSB) cannot add to or diminish the rights and obligations provided in the covered agreements." Furthermore, "The aim of the dispute settlement system mechanism is to secure a positive solution to a dispute. A solution mutually acceptable to the parties to a dispute and consistent with the covered agreements is clearly to be preferred."

In the event a mediated agreement cannot be reached, a party to the dispute may request the establishment of a review panel. As Article 11 states, "The function of panels is to assist the DSB in discharging its responsibilities under this Understanding and the covered agreements. Accordingly, a panel should make an objective assessment of the matter before it, including an objective assessment of the facts of the case and the applicability of and conformity with the relevant covered agreements, and make such other findings as will assist the DSB in making the recommendations or in giving the rulings provided for in the covered agreements. Panels should

consult regularly with the parties to the dispute and give them adequate opportunity to develop a mutually satisfactory solution."
If parties do not arrive at an agreement during the panel process, the panel is required to submit a report within six months of the date it was established. While a panel can apply for an extension on its report, Article 12 clearly states, "In no case should the period from the establishment of the panel to the circulation of the report to the Members exceed nine months."

After a dispute panel's report is submitted, there is an interim review period, after which the report is adopted or appealed by a party to the dispute. Appeals are heard by the Appellate Body, which is comprised of seven people, three of which hear any given case. Appellate Body members serve up to two four-year terms. Similar to dispute panels, the Appellate Body is on a strict time table, and must issues its report 90 days. All appeals are also "limited to the issues of law covered in the panel report and legal interpretations developed by the panel."

Barring a consensus not to, Appellate Body reports are then adopted by the DSB, at which point parties to the dispute are expected to fully comply with the report's findings and make any necessary policy adjustments within a short time period. Altogether, the timeframe for the entire DSB process is expected to play out within a nine-month span, or twelve months for certain appeals cases.

**2. *Straying from the Original Mandate***

The past quarter century has demonstrated that the WTO fails to act in accordance with its aspirational goals and is incapable of dealing with many of the major challenges facing the modern international trading system. This is due in large part to the difficulty the organization has faced when it has attempted to negotiate improvements to the system since the Uruguay Round in 1994.

Under the GATT system, between 1947 and 1994, there were eight negotiating rounds – each of which led to lower tariffs and fewer trade barriers among all GATT Members. But in the twenty-five years since the WTO began operation—though there have been some positive agreements that address discrete aspects of trade—Members have not reached a significant new multilateral market access agreement. As a result, most of the fundamental rules that govern global trade were negotiated before the WTO even came into existence.

The last major effort to modernize these rules under the WTO – the Doha Round – started to collapse in 2008, and has now been dead for more than a decade. Despite all of the dramatic changes that have taken place in the last quarter century – the rise of China, the evolution of the Internet, and the emergence of new, potentially disruptive technologies – the WTO is still largely operating under the same framework from the early 1990s. This has resulted in several major failures of the WTO to live up to its mandate.

a. *Failure to Converge: The Challenge of Non-Market Economies*

The political, economic, and trade landscape in 2020 differs greatly from those that existed in 1994. At the time the WTO came into existence, many in the West hoped that most nations of the world would coalesce around a model of open societies, free markets, and democratic values. It was hoped that such a movement would usher in an era of relative peace in which geopolitical considerations would become less of a factor, and competition would exist primarily at the commercial rather than the political level. This optimism prevailed in Washington and other Western capitals despite warning signs that some nations were not committed to openness.

Twenty-five years later, a starker reality has come into view as non-market economies like China continue to perceive advantages in maintaining state-directed economic policies. The growing influence of these non-market economies in world trade amplifies the need for the WTO to update its rulebook with new disciplines on industrial subsidies, state-owned and state-influenced enterprises, forced technology transfer, and intellectual property theft. The WTO must also meaningfully address issues like digital trade and labor and environmental standards.

The WTO's failure to keep pace with new developments in the global economy has resulted in significant advantages for non-market economies to the detriment of market economies like the United States. As just one example, scholars estimate that China's accession to the WTO has contributed to the loss of millions of jobs in the United States, primarily in the manufacturing sector.

Moreover, the establishment of the WTO has ushered in an era of massive global trade imbalances. While neutral market factors contribute to these long-running imbalances, that the imbalances remain unchanged for decades, despite varying periods of growth and recession, indicates there are other, non-market factors at play. Unfortunately, the global trade system under the WTO currently enables these distortions and imbalances, and the benefits enjoyed by some countries at the expense of others under the current system create serious barriers to reform.

While China is not the only country that has benefitted from the WTO's deficiencies, it remains the primary example of the non-market economies thriving under the current system. China's economic practices are incompatible with the norms the WTO sought to establish at its founding, and the organization has demonstrated an inability to respond effectively to the challenges it poses.

b. *Failure to Develop: Outdated Standards and Rules for Developing Countries*

No one expected in 1994 that the Uruguay Round and Marrakesh Agreement would be the final word on world trade policy. As with the previous era of world trade under the General Agreement on Tariffs and Trade of 1947, parties assumed there would be additional rounds of agreements to update rules and address new challenges in world trade over time. This process has not occurred, leaving in place outdated rules that have failed to keep pace with the changing world.

The significant advantages some countries enjoy over others under the current system have completely undermined incentives for Members to agree to meaningful changes and reforms. While there are several examples of these unfair advantages, many stem from two structural issues. First, current WTO rules allow large and advanced economies to claim special and differential treatment as "Developing Countries" during negotiations. Second, the bound tariff rates established at the time Members entered the agreement are essentially permanent under current rules.

i. Treatment of Advanced Economies as "Developing Countries"

Despite the substantial growth of the global economy since 1994, the WTO continues to rest on an outdated and oversimplified dichotomy between developed and developing countries. This framework has allowed some WTO Members to maintain unfair advantages in the international trade arena.

Under the current system, countries merely need to self-declare as "developing" – regardless of their GDP or role in global trade – to seek flexibilities under WTO rules. This special and differential treatment can take the form of generous transition periods, higher tariff bindings, and the ability to use prohibited subsidies, among others.

Today, nearly two-thirds of WTO Members claim developing-country status, arguing they are entitled to blanket special and differential treatment as a matter of right. While some developing-country designations are certainly legitimate, many are entirely unreasonable in light of current economic circumstances. For example, advanced economies like China, India, Mexico, Saudi Arabia, South Africa, and Turkey continue to insist they are automatically entitled to special and differential treatment. A similar claim is made by some of the richest nations in the world, including Brunei, Kuwait, Qatar, and the United Arab Emirates.

The clear purpose of special and differential treatment is to help truly disadvantaged countries ease their economies into the global trade system. This does not work if large or wealthy countries abuse this framework and seek to take advantage of benefits meant for countries whose economies are truly just getting off the ground.

The lack of differentiation among self-declared developing countries has also severely hampered the WTO's ability to achieve meaningful negotiated outcomes that expand market access, as certain large and advanced economies feel entitled to claim exemption from new rules, avoid engagement on substantive issues, and maintain outdated asymmetries that work to their advantage.

ii. Permanent Disparate Tariff Rates

The WTO has failed to harmonize tariffs over time. As a result, many significant global traders continue to have very high bound tariff rates, far in excess of U.S. bound or applied tariff rates.

The U.S. average bound tariff rate and applied most-favored-nation (MFN) rate are both 3.4 percent. In comparison, Brazil's bound tariff rate is 31.4 percent, and its applied rate is 13 percent. India's bound and applied tariff rates are 48.5 percent and 17 percent, respectively.

Under current WTO rules, these rates are locked in place with no sunset clause or meaningful mechanism to allow the United States and other Members to address enormous differences. It is not reasonable to accept that because the United States agreed to such disparities many years ago, when economic and geopolitical conditions were very different, that the United States should tolerate them in perpetuity. Commitments on tariffs should keep pace with the realities of the global economy rather than locking certain countries into nonreciprocal rates.

c. *Failure to Enforce: A Breakdown in the Rules as Originally Agreed*

The WTO has strayed from the system agreed to by WTO members and has appropriated to itself powers that WTO Members never intended to give it. This drift has primarily taken place in relation to transparency requirements and the dispute settlement system.

i. Transparency

All WTO Members undertake significant commitments to provide regular notifications of subsidy programs and other information critical to assessing trade conditions around the world. Despite these clear obligations, many U.S. trading partners – including significant

economies like China and India – choose to ignore them. As of December 2019, more than 70 percent of Members had not submitted their most recent questionnaire on their import licensing procedures, and over a quarter of agriculture notifications from 1995-2016 were outstanding. This poor adherence to notification obligations has created a lack of transparency at the WTO, which has led to the failure of many Members to implement existing commitments and the breakdown of negotiations. When countries cannot adhere to these most basic of existing obligations, it is unsurprising that they cannot achieve consensus on new, more ambitious commitments.

ii. The Dispute Settlement Process

The United States signed on to the Uruguay Round Agreements with the understanding that its sovereignty would be respected and its existing domestic laws dealing with unfair foreign trade practices would remain fully effective. Instead, the WTO's Appellate Body has imposed new rules never agreed by the United States or approved by the Congress, dramatically undermining this understanding.

Article 3.2 of the Dispute Settlement Understanding plainly states, "Recommendations and rulings of the Dispute Settlement Body cannot add to or diminish the rights and obligations provided in the [WTO] covered agreements." In other words, the dispute settlement process was never intended to make new rules that would become binding on Members. It was instead designed to help Members resolve specific disputes among themselves about the application of existing rules, as set out in the text of the agreements. These limitations remain vital to U.S. sovereignty because they ensure the United States does not become bound by obligations that Congress has not approved.

Over the last quarter century, the United States has become the chief target of litigation at the WTO, and has at least partially lost the overwhelming majority of cases brought against it. 155 disputes have been filed against the United States, while no other Member has faced even a hundred disputes. According to some analyses, up to 90 percent of the disputes pursued against the U.S. have resulted in a report finding that a U.S. law or other measure in question was inconsistent with WTO agreements. This averages out to five or six successful WTO disputes against the United States every year.

In other words, the WTO has effectively treated one of the world's freest and most open economies – with an enormous and growing trade deficit – as the world's greatest trade outlaw. In so doing, the WTO's Appellate Body has repeatedly created new obligations from whole cloth. For example:

- The Appellate Body has attacked U.S. countervailing duty laws, making it easier for other countries to provide market distorting subsidies through non-market policies and practices.

- The Appellate Body has interpreted WTO rules in a manner that puts the U.S. tax system at an unfair and illogical disadvantage compared to that of many trading partners.

- The Appellate Body has interpreted the Agreement on Safeguards – an agreement critical to addressing global import surges that can overwhelm a particular industry – in a manner that significantly limits the ability of Members to use that vital provision.

- The Appellate Body has interfered with the appropriations process by limiting Congress's ability to spend money collected through antidumping and countervailing duties.

In many cases, the Appellate Body's interpretations of WTO rules would prevent the United States from taking action to address unfair trade practices that hurt U.S. workers. In this sense, it has also usurped the U.S. government's accountability to those who are truly sovereign – the American people.

For many years, U.S. Administrations under both parties have warned trading partners of the harm resulting from Appellate Body activism. The Appellate Body simply cannot be allowed to flaunt basic rules of operation to which all Members have agreed. Thus far, U.S. concerns have largely been ignored.

These lapses have incentivized WTO Members to rely on litigation through the Appellate Body to get results rather than negotiation. This, in turn, has greatly undermined the negotiating process at the WTO because countries now believe they can obtain better outcomes through litigation than through negotiation, especially with the United States. Such countries have no incentive to negotiate in good faith if they believe there are easier avenues to pursue their interests.

Furthermore, in its day-to-day operations, the Appellate Body has developed a troubling pattern of ignoring mandatory deadlines for deciding appeals, dragging some – such as those in the U.S.-EU Large Civil Aircraft disputes – out for over a year each; making impermissible findings on issues of fact, including fact-finding related to Member's domestic laws; issuing unnecessary advisory opinions rather than facilitating negotiations between parties; treating prior Appellate Body interpretations as binding precedent for dispute settlement panels; extending Appellate Body members' terms without authority; and compensating Appellate Body members excessively and opaquely.

These actions represent a tendency by the Appellate Body to both institute rules to which WTO Members have not agreed and ignore or evade existing rules written in plain language. This has led to a significant decline in trust in the Appellate Body, which has opened the entire dispute settlement system to serious vulnerabilities. The WTO simply cannot claim to stand for a rules-based trading system if its own institutions fail to follow clear and explicit rules. Any action beyond these rules undermines the WTO's role as a negotiation forum, lacks legitimacy, and usurps Members' sovereignty.

### 3. *Summary*

Despite the serious challenges facing the World Trade Organization, the United States values the WTO and is working diligently within the organization to find solutions. For example, the United States is actively engaged in negotiations to discipline harmful fishing subsidies and to develop new rules to govern digital trade. The United States has called attention to unequal bound and applied tariff rates, and continues to press other Members for additional market access. The United States has also offered specific proposals to improve transparency, address the lack of compliance with existing notification obligations, and promote greater differentiation among self-declared developing countries. The United States continues to press longstanding concerns with the Appellate Body and the dispute settlement system, including its lack of transparency. The United States has taken each of these steps in an attempt to ensure that the WTO retains its relevance to trading nations.

Going forward, the United States seeks to revitalize the WTO and reinvigorate its negotiations through recognizing the organization's original mandate, ensuring compliance with the rules as written, rebalancing its approach to development and non-market practices, and promoting new rules to respond to new problems. By taking these actions, the United States hopes to restore public confidence in the WTO and the global trading system while securing greater prosperity and economic success for American citizens.

## B. Trade and Economic Data

When considering the effects of the WTO Agreement on the interests of the United States, it is instructive to compare U.S. economic performance and trade flows before and after 1994, the year the United States joined the WTO. It is also informative to compare U.S. economic and trade data trends with those of other WTO Members – especially China.

### 1. *Before and After the WTO: A Comparison of U.S Economic Performance*

While broad economic indicators such as GDP growth and unemployment rates are affected by trade policy, several other economic factors provide more focused reference points for how the United States is faring as a member of the World Trade Organization. These factors include changes in trade flows and balances, productivity and output, and real wages and employment numbers across various sectors. With that in mind, this section assesses a broad range of economic data.

***Growth***

The U.S. economy grew at an average annual rate of 3.5 percent under the GATT system (1947–1994). Considering only economic data for the immediate twenty-five years before the United States joined the WTO (1969–1994), the economy grew by an average annual rate of 3.0 percent. In the twenty-five years since joining the WTO, growth has slowed to an average annual rate of 2.5 percent.

This trend is consistent for U.S. real GDP growth per capita, which grew by an average annual rate of 2.2 percent from 1947-1994, 2.0 percent from 1969-1994, and 1.5 percent from 1994-2019.

***Investment***

Investment growth rates have remained relatively consistent since the creation of the WTO. Annual non-residential fixed investment growth in the United States has averaged 4.4 percent since the establishment of the WTO, compared to 4.0 percent between 1969 and 1994.

***Productivity and Output***

Under the GATT system (1947–1994), overall U.S. productivity in the non-farm business sector grew by an average annual rate of 2.5 percent. In the twenty-five years since joining the WTO, the average rate of productivity growth has slowed to 2.0 percent, though this was slightly above the annual average of 1.8 percent growth between 1969 and 1994.

When considering productivity, one should also consider output, as they both affect supply, wages, and employment. Productivity increased by only 2.5 percent in the GATT years, but economic output increased at a rate of 3.7 percent. And while productivity growth was slower during the twenty-five-year period before 1994 than in the WTO years, average annual output growth was higher (3.3 percent vs. 2.8 percent between 1994 and 2019).

Data from the Bureau of Labor Statistics on manufacturing productivity and output only go back to 1987, but they still show that output growth from 1994 to 2019 was actually slower than productivity growth (1.3 percent vs. 2.4 percent). This means despite a continued ability to produce goods with increasing efficiency, that efficiency has translated less and less into manufacturers actually producing more goods. This has likely had significant consequences for manufacturing employment numbers.

Lastly, though it is not an equivalent period to the post-WTO years, output growth in manufacturing was still about even with productivity growth between 1987 and 1994 (both were around 2.4 percent). A more meaningful division of this period might be before and after 2001, the year China joined the WTO. Between 1987 and 2001, average annual manufacturing output increased by 2.8 percent, with average annual productivity increasing by 3.3 percent. Between 2001 and 2019, annual average productivity in manufacturing still grew by 1.8 percent, but manufacturing output growth plummeted to an average of only 0.6 percent.

***Wages***

Between 1994 and 2019, average annual real hourly work compensation grew by 1.11 percent. Though this is higher than the previous twenty-five-year average of 0.94 percent, annual real hourly wages grew by 1.87 percent on average between 1947 and 1994.

For comparison, average annual real wages for production and nonsupervisory employees in manufacturing have remained flat since the 1970s, despite increases in productivity. Average real wages for this sector were roughly $20.23 in 1974, $19.23 in 1994, and $19.56 in 2014, in 2014 dollars.

***Employment***

Labor force participation declined from a peak of 67.3 percent in 2000 to a low of 62.4 percent in 2015. Since 2015, it has rebounded to 63.4 percent (as of January 2020).

Declines in manufacturing employment undoubtedly contributed to this trend. In 1947, there were roughly 14.3 million manufacturing workers in the United States, representing 32.5 percent of the workforce. After peaking at 19.4 million in 1979, this figure stood at 17 million in 1994. By 2019 there were only 12.8 million Americans working in the manufacturing sector, a mere 8.5 percent of the workforce. This is lower than the 1947 number – 72 years earlier – despite a 129 percent increase in the U.S. population.

Annually, manufacturing employment declined by 62,120 workers on average between 1969 and 1994, but this decline accelerated dramatically to an annual loss of 167,240 manufacturing workers between 1994 and 2019. By comparison, the U.S. economy averaged a net *increase* of 58,149 manufacturing workers annually between 1947 and 1994. Notwithstanding these trends, manufacturing job growth has begun to accelerate under the Trump Administration, with the U.S. economy adding over 500,000 manufacturing jobs between 2016 and 2019.

Lastly, while some economists primarily emphasize productivity increases in explaining the decline in U.S. manufacturing employment, others argue – and the data below indicate – that changes in U.S. trade flows have also played a substantial role.

## 2. *1994-2019: A Comparison of U.S. and World Trade Flows*

U.S. trade flows have seen a significant increase since 1994. Between 1994 and 2019, the real value of trade in goods and services increased by nearly $4.1 trillion, or 213.4 percent. U.S. exports increased by roughly $1.6 trillion (185.2 percent) and imports increased by roughly $2.5 trillion (237.6 percent).

| Real Value of Goods and Services Trade | | | | |
|---|---|---|---|---|
| **Billions of Dollars** | **1994** | **2019** | **Change** | ***% Change*** |
| **Exports** | 887.7 | 2,531.9 | 1,644.2 | *185.2%* |
| **Imports** | 1,032.7 | 3,486.1 | 2,453.4 | *237.6%* |
| **Total Trade** | 1,920.4 | 6,018.0 | 4,097.6 | *213.4%* |

But while these trends may suggest that the WTO has been successful in increasing overall trade flows, the United States has also seen an enormous increase in its trade *deficit* over this period. In other words, during the twenty-five years that the WTO has been in place, U.S. imports have increased dramatically relative to exports.

In 1994, the U.S. annual trade deficit in goods and services stood at $98.5 billion. By 2019, this figure rose to $616.8 billion, an increase of 562.2 percent. It is worth noting, however, that this trend is starting to reverse under the Trump Administration, as the trade deficit declined by $11 billion (1.7 percent) and the goods trade deficit by $21 billion (2.4 percent) in 2019. A full breakdown of changes in U.S. trade balances by sector can be found in the charts below:

| Trade Balance in Goods | | | | | |
|---|---|---|---|---|---|
| **Millions of Dollars** | **Total Goods and Services** | **Total Goods** | **Manufacturing** | **Agriculture** | **High-Tech** |
| **1994** | -98,493 | -165,831 | -127,026 | 20,351 | 22,627 |
| **2019** | -616,755 | -865,984 | -794,246 | 10,179 | -132,373 |
| **Change** | -518,262 | -700,153 | -667,220 | -10,172 | -155,000 |
| ***% Change*** | *-526.2%* | *-422.2%* | *-525.3%* | *-50.0%* | *-685.0%* |

| Trade Balance in Goods (Continued) | | | | | |
|---|---|---|---|---|---|
| **Millions of Dollars** | **Capital Goods** | **Industrial Supplies** | **Consumer Goods** | **Autos and Auto Parts** | **Petroleum** |
| **1994** | 20,654 | -40,718 | -86,293 | -60,496 | -44,315 |
| **2019** | -131,058 | 8,615 | -447,513 | -214,244 | -13,714 |
| **Change** | -151,712 | 49,333 | -361,220 | -153,748 | 30,601 |
| ***% Change*** | *-734.5%* | *121.2%* | *-418.6%* | *-254.1%* | *69.1%* |

| Trade Balance in Services | | | | | | |
|---|---|---|---|---|---|---|
| **Millions of Dollars** | **Total Services** | **Financial Services** | **IP Receipts** | **Insurance Services** | **Government** | **Maintenance + Repair Services** |
| **1999** | 78,450 | 11,153 | 34,429 | -6,337 | -5,994 | 2,811 |
| **2019** | 249,229 | 79,692 | 71,299 | -31,986 | -3,447 | 23,123 |
| **Change** | 170,779 | 68,539 | 36,870 | -25,649 | 2,547 | 20,312 |
| ***% Change*** | *217.7%* | *614.5%* | *107.1%* | *-404.7%* | *42.5%* | *722.6%* |

| Trade Balance in Services (Continued) | | | | |
|---|---|---|---|---|
| **Millions of Dollars** | **Travel (including for Education)** | **Transportation** | **Telecom, Computer and Info Services** | **Other Business Services** |
| **1999** | 32,746 | -6,402 | -1,045 | 17,089 |
| **2019** | 61,830 | -18,264 | 4,936 | 62,047 |
| **Change** | 29,084 | -11,862 | 5,981 | 44,958 |
| ***% Change*** | ***88.8%*** | ***-185.3%*** | ***572.3%*** | ***263.1%*** |

These data indicate the following:

- Imports have grown significantly faster than exports for nearly all categories of U.S. goods.

- Reported increases in exports of U.S. service sectors have not made up for the increasing trade deficit in goods in terms of the overall U.S. trade balance. This is partly due to goods making up around 69 percent of U.S. trade, while services represent approximately 31 percent.

- The sectors with the greatest negative change in trade balance since 1994 are manufacturing (-$667 billion), consumer goods (-$361 billion), high technology (-$155 billion), autos and auto parts (-$154 billion), and capital goods (-$152 billion). Manufacturing trade (exports plus imports) accounted for 65.5% of total Goods and Services trade and 84.1% of total goods trade in 1994, and 63.1% in overall trade and 85.1% of trade in goods in 2019. Though these proportions are similar, manufacturing dropped from 60.4% to 54.8% as a percentage of total goods and services exports and 84.1% to 83.0% of goods exports between 1994 and 2019.

- The sectors with the greatest negative *rate* of change in trade balance since 1994 are capital goods (-735%), high technology (-685%), manufacturing (-525%), consumer goods (-419%), insurance services (-405%), autos and auto parts (-254%), and transportation (-185%).

Clearly the changes to the world trade system under the WTO have been better for some sectors of the U.S. economy than others, at least in terms of where goods are produced and services provided. The sheer rate of decline in the balance of exports of capital goods, consumer goods, manufacturing, and high technology sectors since 1994 is striking.

Such divergent shifts in trade balances across U.S. economic sectors has played a substantial role in changing the U.S. labor market. Many would argue these changes are due to natural economic incentives to shift investment into more productive sectors when faced with foreign competition. While this may be partly true, there are many reasons to question how “natural” current economic incentives are given several of the issues outlined in the previous section.

The increase in U.S. trade with "developing" countries since 1994 further underscores this point. U.S. import growth from 1994 to 2019 was more than three times as strong from emerging markets and developing countries as from advanced countries (531 percent vs. 163 percent). Due to this growth, the total level of U.S. goods imports from emerging markets and developing countries (at 52 percent) was greater than that from advanced economies in 2019, compared to 31 percent in 1994. The strongest U.S. import growth from any country over this period – at 1,066 percent – came from China.

Given the disproportionate growth in imports from China since 1994, it is helpful to consider the trade and economic data available for that country since 1994 and 2001, the year China entered the WTO.

| **China Trade Balance (in Millions of Dollars)** | | | | | | |
|---|---|---|---|---|---|---|
| **Sector** | **1994** | **2001** | **2018** | **2019** | **Change (Over Time Available)** | ***% Change (Over Time Available)*** |
| **Total Goods** | 5,391 | 22,545 | 350,947 | 421,932 | 416,541 | *7,726%* |
| **Agricultural Products** | 4,633 | -3,499 | -112,375 | N/A | -117,008 | *-2,526%* |
| **Manufacturing** | 2,789 | 45,901 | 1,016,174 | N/A | 1,013,385 | *36,335%* |
| **Total Services** | 321 | -5,933 | -255,481 | N/A | -255,802 | *-79,689%* |
| **Financial Services** | -298 (1997) | 22 | 1,361 | N/A | 1,659 | *557%* |

These data show a near mirror image of the U.S. trade economy in terms of trade balances. While U.S. trade balances have surged in the services sector and plummeted in the goods sector since 1994, China's relative trade balances have done the opposite. In an important sign of progress, however, the U.S. trade deficit with China narrowed by 17.6 percent to $345.6 billion in 2019.

***Summary***

The United States simply cannot sustain substantial increases in its trade deficit year after year, decade after decade. An economy as large and diverse as the U.S. economy also cannot prosper on services alone, especially considering that goods still account for nearly 70 percent of the U.S. trade economy. For both economic reasons and reasons of national security, the United States must maintain robust growth across a wide variety of economic sectors, including manufacturing, capital goods, and high technology.

The reasons are simple. First, the manufacturing and the tradeable goods sectors provide some of the best job opportunities for Americans with less than a four-year college degree – a population unlikely to ever disappear from the U.S. economy. This population deserves a wide variety of job opportunities that will support and sustain their families and communities.

Second, tradeable goods will always remain at the center of the United States economy. The essential needs of Americans – and all other peoples – remain fixed throughout time: food, shelter, clothing, energy, defense, and the tools and machines necessary to procure them. Continued net increases in outsourcing of goods production will inevitably wear down the U.S. ability to innovate and adapt to changing economic and geopolitical circumstances in the future.

Third, massive trade deficits allow foreign governments and producers to buy up disproportionate amounts of American assets. While this may raise stock prices, the value of the dollar, and the Treasury's cash flow, it has the potential to create real, long-term problems for productivity growth and erode actual material wealth. The U.S. economy exists beyond balance sheets; it is comprised of real physical businesses that

employ real Americans, real physical buildings that house them, and real physical infrastructure that supports them. The United States must ensure that foreign direct investment remains consistent with a long-term vision of economic security.

In sum, it is unfair and unsustainable for the United States to accept the status quo under current WTO conditions that help contribute to enormous and ever-growing trade imbalances. While the U.S. trade balance may not be the only indicator of economic health, it is an indicator of how equitably the United States is treated by its trading partners and how well it is faring as a Member of the WTO. While many sectors of the U.S. economy benefit substantially from the current system as it exists, the United States must work to ensure all sectors of the American economy – and their employees – enjoy fair and equitable treatment in the world's markets.

## C. An Assessment of Problems at the WTO

The United States believes the World Trade Organization must undergo fundamental change in the following areas:

### 1. *WTO Dispute Settlement and the Appellate Body*

During 2018 and 2019, the United States provided a series of extensive critiques objecting to the Appellate Body's disregard for the rules as set by WTO Members, and its attempts to alter rights and obligations under the WTO Agreement. Issues addressed included the Appellate Body's disregard for the mandatory 90-day deadline for appeals, unauthorized review of panel factual findings (including on domestic law), issuance of advisory opinions on issues not necessary to resolve a dispute, treatment of prior Appellate Body reports as precedent, and unapproved extension of Appellate Body members' service beyond established terms.

These problems are not just procedural, but extend to matters of substance as well. The United States has expressed deep concerns for many years and under multiple Administrations with the Appellate Body's overreach in various areas, including subsidies, antidumping and countervailing duties, standards under the TBT Agreement, and safeguards. Such overreach restricts the ability of the United States to regulate in the public interest and protect U.S. workers and businesses against unfair trading practices. USTR recently issued an extensive report that details the systemic problems with the WTO Appellate Body and dispute settlement process and addresses the correct approach to all of the issues identified.

### 2. *Non-Market Economies*

The WTO must address the challenges posed by non-market economies. The WTO's framework of rules has inadequately dealt with the disruptive impacts on global trade imposed by Members whose economies are managed principally through state direction. The absence of updates and effective enforcement of WTO Agreements has left Members with insufficient tools to address these corrosive practices. These problems are further exacerbated by lapses in transparency and compliance, as well as the flawed interpretations by the WTO Appellate Body discussed above.

The United States has been working with the European Union and Japan to address these challenges, including through the development of new rules and the use of domestic and other measures. The trilateral partners seek address non-market-oriented policies and practices of third countries that lead to severe overcapacity, create unfair competitive conditions for their workers and businesses, hinder

the development and use of innovative technologies, and undermine the proper functioning of international trade. Discussions have yielded the following proposals for reform:

- New types of unconditionally prohibited subsidies must be added to Article 3.1 of the Agreement on Subsidies and Countervailing Measures (ASCM), including: unlimited guarantees; subsidies to an insolvent or ailing enterprise in the absence of a credible restructuring plan; subsidies to enterprises unable to obtain long-term financing or investment from independent commercial sources operating in sectors or industries in overcapacity; and certain direct forgiveness of debt.

- Other subsidies – including excessively large subsidies, subsidies that prop up uncompetitive firms, subsidies creating massive manufacturing capacity without private commercial participation, and subsidies that lower input prices domestically versus prices destined for export – should face stronger enforcement standards and require immediate withdrawal when discovered. The ASCM should also be updated to include cases of serious prejudice linked to capacity, and to describe circumstances in which domestic prices can be rejected in favor of a proper alternative benchmark.

- Governments provide subsidies through the non-market behavior of state-owned enterprises. Such enterprises should be captured by the term "public body" and subject to existing WTO subsidy rules. The trilateral partners agree that the WTO Appellate Body interpretation of "public body" (as an entity "possessing, exercising, or vested with governmental authority") is not necessary, undermines WTO subsidy disciplines, and must be corrected.

- Lastly, the current rules of the ASCM do not provide any incentive for WTO Members to properly notify their subsidies. New, stronger incentives are necessary for Members to notify subsidies properly, and should be added to Article 25 of the ASCM. Failure to disclose subsidies should result in immediate suspension of the subsidies in question when another member counter-notifies.

The trilateral partners are also considering other initiatives and reforms concerning the importance of market-oriented conditions to the international trading system, forced technology transfer, and State-Owned Enterprises. Once finalized among the United States, European Union, and Japan, WTO adoption of these initiatives and reforms would be a significant first step in addressing the long-standing issue of state-led, non-market actions by WTO Members.

### 3. *Greater Differentiation among Self-Declared Developing Countries*

The WTO must update its understanding of global development to reflect current trade realities. The world trade system cannot sustain a situation in which new rules can only apply to the few, and others are given a pass in the name of self-proclaimed development status that provides access to unnecessary special and differential treatment. This system has allowed five of the six richest countries in the world to secure the same trade flexibilities, exemptions, and benefits as some of the poorest countries in the world, such as those in Sub-Saharan Africa.

There is no hope of progress in resolving this challenge and facilitating the negotiating function of the WTO until the world's most advanced economies are prepared to take on the full commitments associated with WTO membership. To that end, the United States has proposed eliminating blanket special and differential treatment in future WTO agreements for countries that have improperly availed

themselves of such treatment, and refusing to support the future accession of such countries to the OECD.

**4. *Notification Requirements***

WTO Members must adhere to notification obligations. Poor compliance with notification obligations has starved the WTO of vital information on the implementation of existing commitments and has contributed measurably to a lack of progress in negotiations. The United States has presented a proposal to provide incentives and impose consequences for failure to meet notification obligations and has been joined by a number of co-sponsors in support of this work. In addition, better use of WTO standing committees and closer scrutiny of how they manage and allocate resources is necessary to improve transparency and overall implementation of WTO rules, as the United States has sought to show through its consistent and rigorous participation.

**5. *Forced Technology Transfer***

The WTO should recognize the harms caused by forced technology transfers. Technology transfer that is fair, voluntary, and based on market principles can be mutually beneficial for growth and development; however, when one country engages in forced technology transfer, it deprives other countries of the opportunity to fairly benefit from the flow of technology and innovation.

Forced technology transfer is inconsistent with an international trading system based on market principles and undermines growth and development. Members should develop norms, core disciplines, and effective means to stop harmful forced technology transfer policies and practices, including through enforcement tools and the development of new rules.

# CONCLUSION

It is difficult now, twenty-five years after its inception, to declare the WTO a success for American interests. Indeed, the organization in many ways ignores and enables unbalanced trade and unfair trade practices. If the WTO is to be credible as a vibrant negotiating, implementation, and dispute settlement forum, it must be limited to its original mandate and address areas in need of structural reform. This means Members must recognize and reaffirm that the WTO is an organization committed to promoting the adoption of market-based policies by its Members. The goal of the organization must continue to be a greater convergence around market-based principles, not the co-existence of radically different economic systems. The WTO – and its dispute settlement system – must also respect the rules as agreed to by Members, embrace its role as a negotiating forum rather than a litigating entity, and stop its infringement on the sovereignty of the United States and other Members.

Looking ahead to the Twelfth Ministerial Conference this year, the United States believes that Members must identify opportunities to make meaningful progress on these objectives. To remain a viable institution that can fulfill all facets of its work, the WTO must also find a means of effectively pursuing negotiations between Ministerial Conferences, focus its work on structural reform, and adapt to address new challenges to the 21st Century world trade system. The United States looks forward to continuing its leadership role in advancing these changes and the broader mission of the World Trade Organization.

# 2019 ANNUAL REPORT
# OF THE
# PRESIDENT OF THE UNITED STATES
# ON THE
# TRADE AGREEMENTS PROGRAM

# I. AGREEMENTS AND NEGOTIATIONS

## A. Concluded Negotiations

### 1. United States–Mexico–Canada Agreement / North American Free Trade Agreement

**Overview**

On January 29, 2020, President Trump signed legislation implementing the United States–Mexico–Canada Agreement (USMCA), thereby fulfilling his promise to the American people to renegotiate the North American Free Trade Agreement (NAFTA). After over a year of additional consultations with Congress, on December 10, 2019, the United States, Mexico, and Canada signed a protocol of amendment to the USMCA that: (1) further strengthens the enforcement of the labor obligations while continuing to promote fair and balanced trade; (2) enhances environment commitments, including a brand new environmental cooperation agreement, the Agreement on Environmental Cooperation (ECA) that will help bolster our efforts to reduce pollution, strengthen environmental governance, conserve biological diversity, and sustainably manage natural resources; (2) changes the state-to-state dispute settlement mechanism to ensure that provisions can be fully enforced; (4) includes modifications to the Intellectual Property Chapter that clarify the balance between fostering innovation for, and promoting access to, life-saving medicines. The USMCA is a comprehensive overhaul of the outdated NAFTA that will: promote freer, fairer, and more balanced trade between the Parties; ensure fairness and reciprocity for American workers, farmers, ranchers, and businesses; incentivize job creation in the United States——particularly in the manufacturing sector; and grow the North American economy. The USMCA is the new gold standard for U.S. trade agreements going forward.

The USMCA is a state-of-the-art agreement that maintains the zero tariffs already in place and includes new and far-reaching obligations designed to achieve three principal objectives:

First, the USMCA rebalances the NAFTA to promote increased production in the United States and North America and to ensure that non-parties do not gain unwarranted benefits through the agreement. The USMCA features innovative rules of origin for automobiles and automobile parts that, once fully implemented, will create strong incentives to invest and manufacture in the United States and North America. These rules are designed to address incentives created by the NAFTA to produce automobiles and automotive parts using low-wage labor outside of the United States. A higher regional value content threshold, when taken in conjunction with the closing of key NAFTA loopholes such as 'deemed originating', will ensure that only producers using significant North American parts and materials receive preferential tariff benefits under the USMCA. In addition, for the first time in a U.S. trade agreement, the USMCA includes a labor value content rule, which will promote the use of high-wage labor in automobile production, thereby helping ensure a level playing field for U.S. workers in this sector.

The USMCA also includes the strongest, most advanced, and most comprehensive labor obligations of any U.S. trade agreement. Unlike the NAFTA, the USMCA's labor provisions have been incorporated into the text of the agreement and are fully enforceable. It includes a special Annex that requires Mexico to overhaul its system of labor justice to ensure that workers have the right to secret ballot votes to elect and challenge union leadership and to approve new and existing collective bargaining agreements. The USMCA also includes a new, first-of-its-kind Rapid Response Mechanism in the dispute settlement chapter that will provide for facility specific monitoring and expedited enforcement of labor rights in Mexico. These

provisions will promote better working conditions and higher wages for Mexican workers and will create the conditions for fairer competition between U.S. and Mexican workers.

The USMCA also includes important improvements that will enable food and agriculture products to be traded more fairly, which will allow for expanded exports of American agricultural products. This includes securing significant new access for U.S. producers to Canada's market for dairy, eggs, and poultry. Additionally, the USMCA makes significant reforms to the investor-State dispute settlement mechanism that safeguard U.S. sovereignty while ensuring adequate protection for U.S. investors in Mexico and Canada.

Second, the USMCA modernizes the NAFTA with provisions that reflect the realities of the 21st century economy. It includes the strongest commitments in any U.S. trade agreement on: (1) digital trade, prohibiting customs duties on digital products and ensuring the free flow of data across border, (2) financial services, including a prohibition on local data storage requirements, and commitments to further liberalize financial services markets and ensure a level playing field for U.S. financial institutions, investors, investments in financial institutions, and cross-border trade in financial services; (3) intellectual property rights, including the strongest protections and enforcement of copyright term, mandatory criminal penalties for camcording, civil and criminal protection for trade secrets, and the requirement that Canada and Mexico give U.S. creators the same rights those Parties extend to domestic creators.

The USMCA also does more than any other U.S. trade agreement to take on the non-tariff barriers that can hinder U.S. exports, even after tariffs have been eliminated. It includes chapters addressing anticorruption and provisions to facilitate trade by small and medium-sized businesses, as well as comprehensive new provisions on transparency and regulatory matters, including state-of-the-art chapters on technical barriers to trade, sanitary and phytosanitary measures, and a new chapter on good regulatory practices. In addition – like labor – the UMSCA will replace the NAFTA side agreement on environment with a state-of-the-art, fully enforceable environment chapter containing the strongest and most comprehensive obligations, within the core text of the agreement, as well as the new ECA that will enhance the effectiveness of environmental cooperation between the three parties.

The USMCA also includes a first-of-its kind Review and Term Extension provision, the "Sunset Provision", designed to ensure that the Agreement will not become outdated and unbalanced over time. This provision will allow the Agreement to continue to serve America's interests over the long run.

Third, the USMCA contains a set of ground-breaking provisions to combat subsidies and non-market practices that have the potential to disadvantage American workers and businesses. These include: (1) a first-of-its-kind chapter to address unfair currency practices; (2) pioneering rules on the definition of and subsidies provided to state-owned enterprises (SOEs); and, (3) transparency obligations with respect to any USMCA Party's future trade negotiations with non-market economies. These changes will help mitigate the trade-distorting impact of unfair trade practices in North America.

Once in force, the USMCA will result in more balanced, reciprocal trade with Mexico and Canada, support higher-paying jobs for Americans, and ensure that North America remains the world's economic powerhouse.

**Elements of NAFTA**

On January 1, 1994, the NAFTA entered into force. It will be replaced by the USMCA once the new agreement enters into force. Tariffs on nearly all goods were eliminated progressively, with any scheduled elimination of duties and quantitative restrictions completed 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 2019, the United States exported $292 billion worth of goods to Canada, and imported $320 billion worth of goods from Canada, for a bilateral trade deficit in goods of $27 billion. During the same year, the United States exported $256 billion worth of goods to Mexico, and imported $358 billion worth of goods from Mexico, for a bilateral trade deficit in goods of $102 billion. The United States has had a trade deficit in goods with both Mexico and Canada in every year since 1994.[1]

In 2018 (latest data available), U.S. exports of services to Canada were an estimated $64.1 billion and U.S. imports were $35.9 billion. Sales of services in Canada by majority U.S.-owned affiliates were $122.1 billion in 2017 (latest data available), while sales of services in the United States by majority Canada-owned firms were $126.2 billion. U.S. exports of services to Mexico were an estimated $33.8 billion in 2018 and U.S. imports were $25.8 billion. Sales of services in Mexico by majority U.S.-owned affiliates were $42.6 billion in 2017 (latest data available), while sales of services in the United States by majority Mexico-owned firms were $9.9 billion. The United States has had a trade surplus in services with Canada every year since 1986 (since services data was reported) and with Mexico every year since 1989

*NAFTA and Labor*

The North American Agreement on Labor Cooperation (NAALC) is a supplemental agreement to the NAFTA. Once the USMCA enters into force, the NAALC will be replaced by the labor provisions in the USMCA. The USMCA's labor obligations incorporate and greatly exceed the fundamental aspects of the NAALC, and represent the most enforceable labor obligations of any trade agreement. The Labor Chapter of the USMCA requires the Parties to adopt and maintain in law and practice labor rights as recognized by the International Labor Organization, to effectively enforce their labor laws, and not to waive or derogate from their labor laws. It includes new provisions requiring Parties to take measures to prohibit the importation of goods produced by forced labor and to address violence against workers exercising their labor rights. The Administration also negotiated an innovative "Rapid Response" dispute settlement mechanism with Mexico to ensure protection of labor rights at the factory level. The new mechanism will enlist Labor Panelists to assess complaints about conditions at specific facilities, and provides for the suspension of USMCA tariff benefits or the imposition of other penalties, such as blocking imports from businesses that are repeat offenders, in cases of non-compliance with key labor obligations.

In 2017, the Mexican Congress enacted the constitutional labor reforms after a majority of Mexican states approved them. In May 2019, Mexico enacted a comprehensive legislative package to implement the constitutional reforms. The legislation includes detailed provisions intended to address longstanding concerns regarding the worker approval for, and government registration of, collective bargaining

[1] 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 a $27 billion goods deficit with Canada in 2019, and a $102 billion goods deficit with Mexico. Both countries report substantially larger U.S. goods surpluses in the same relationship. Canada reports a $107 billion surplus, and Mexico has not yet reported full year 2019 data, but current Mexican estimates suggest an over $160 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 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.

agreements, as well as the voting process to decide union representation challenges. The reforms will transfer the authority to adjudicate labor disputes from 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." Under the terms of the USMCA Labor Chapter Annex on "Workers Representation in Collective Bargaining," the reforms must include specific provisions to prohibit 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 Annex also includes a commitment to require a review of existing collective bargaining agreements within a period of four years from enactment of the labor reform, to verify that a majority of the workers covered by the collective bargaining agreement have expressed their support for the agreement through a personal, free, and secret vote.

The Administration is consulting closely with the Mexican government regarding the content of the reforms to ensure full implementation of Mexico's obligations under the USMCA. (*For further information, see Chapter III.F.1.*).

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.

The NAALC remains in force pending the USMCA's entry into force. As of publication, there are six pending submissions under the NAALC: two with the Canadian NAO (one involving Mexico), three with the Mexican NAO (two involving the United States and one involving Canada), and one with the U.S. NAO (involving Mexico).

*NAFTA and the Environment*

The North American Agreement on Environmental Cooperation (NAAEC) is a supplemental agreement to the NAFTA. The USMCA's Environment Chapter strengthens and modernizes the existing environmental framework under the NAAEC by bringing the environmental obligations into the core of the text, rather than in a side agreement, and makes them fully enforceable under the USMCA's dispute resolution provisions. The USMCA also addresses key environmental challenges such as illegal, unreported, and unregulated (IUU) fishing and harmful fisheries subsidies. The Agreement commits the United States, Canada, and Mexico to take actions to combat and cooperate to prevent trafficking in timber, fish, and other wildlife, and includes provisions to address other environmental issues such as air quality and marine litter. The USMCA implementing bill (H.R. 5430) includes over $400 million in new resources to support enhanced monitoring and enforcement of the USMCA environmental protections, as well as much needed border water infrastructure. The NAAEC will remain in force pending the USMCA's entry into force.

In parallel with the USMCA, the United States, Mexico, and Canada will implement a new ECA, which also updates and supersedes the NAAEC and modernizes and enhances the effectiveness of environmental cooperation between the three parties. The ECA includes efforts to reduce pollution, strengthen environmental governance, conserve biological diversity, and sustainably manage natural resources. *(For additional information, see Chapter III.E.1)*.

On June 24 and June 25, 2019, the Commission for Environmental Cooperation (CEC) Council met in Mexico City, Mexico. The Council reviewed progress to date in implementing numerous cooperative projects, including reducing marine litter in shared watersheds, piloting these efforts in the United States–Canada border Salish Sea and United States–Mexico border Tijuana River watersheds. The Council also

reviewed projects with manufacturing supply chains in the chemicals and automotive sectors to manage energy use and reduce costs and emissions to improve competitiveness. In 2019, the CEC Parties continued the practice of reporting on actions taken on public submissions on enforcement matters concluded over the previous year and continued advancing trade and environment priorities, including environmental and ecosystem protection, and innovation and partnerships for sustainable growth.

## 2. United States–Japan Trade Agreement and United States–Japan Digital Trade Agreement

The United States and Japan began negotiations in April of 2019, reached agreement in principle on early achievements in the areas of market access and digital trade in August, and announced that the final agreements had been reached in September. On October 7, 2019, the United States and Japan signed the United States-Japan Trade Agreement (USJTA) and the United States-Japan Digital Trade Agreement (USJDTA). Following the completion of respective domestic procedures, both agreements went into effect on January 1, 2020. Further negotiations are expected during 2020. (*See Chapter I.B.2 for discussion of the ongoing United States-Japan Trade Agreement negotiations.*)

### U.S.-Japan Trade Agreement Overview

The USJTA delivers early achievements from bilateral negotiations in the areas of market access for certain goods. Japan agreed to eliminate or lower tariffs for a wide array of U.S. agricultural goods exports. For other agricultural goods, Japan has provided preferential U.S.-specific quotas. With this agreement, over 90 percent of U.S. food and agricultural products imported into Japan are now either duty-free or receive preferential tariff access. The United States agreed to reduce or eliminate tariffs on certain industrial goods from Japan, as well as on a small number of agricultural imports.

### Agriculture-Related Benefits of the USJTA

For the products covered under the USJTA, American farmers and ranchers now have the same advantages as countries party to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership selling into the Japanese market. Out of the $14.1 billion in U.S. food and agricultural products imported by Japan in 2018, $5.2 billion were already duty-free. Under this initial tariff agreement, Japan will eliminate or reduce tariffs on an additional $7.2 billion of U.S. food and agricultural products.

*Tariff Elimination:* Tariffs were eliminated on January 1, 2020, on over $1.3 billion of U.S. farm products including, for example: almonds, blueberries, cranberries, walnuts, sweet corn, grain sorghum, food supplements, broccoli, and prunes. Other products valued at $3.0 billion benefit from staged tariff elimination. This group of products includes wine, cheese and whey, ethanol, frozen poultry, processed pork, fresh cherries, beef offal, frozen potatoes, oranges, egg products, and tomato paste.

*Tariff Reduction:* For additional products valued at $2.9 billion, Japan will reduce tariffs in stages; the first cut took place on January 1, 2020. Among the products benefitting from this enhanced access are fresh beef, frozen beef, fresh pork, and frozen pork.

*Country Specific Quotas (CSQs):* For some products, preferential market access is provided through the creation of CSQs, which provide access for a specified quantity of imports from the United States at a preferential tariff rate, generally zero. CSQs cover imports of wheat, wheat products, malt, processed cheese, glucose and fructose, corn and potato starch, and inulin.

*Mark Up:* Exports to Japan of wheat and barley benefit from a reduction to Japan's "mark up" on those products. Japan's imports of U.S. wheat and barley were valued at $690 million in 2019.

**United States-Japan Digital Trade Agreement**

The USJDTA parallels the United States-Mexico-Canada Agreement (USMCA) as the most comprehensive and high-standard trade agreement addressing digital trade barriers ever negotiated. This agreement will help drive economic prosperity, promote fairer and more balanced trade, and help ensure that shared rules support businesses in key sectors where both countries lead the world in innovation.

The USJDTA includes rules that achieve the following:

- Prohibit application of customs duties to digital products distributed electronically, such as e-books, videos, music, software, and games;
- Ensure non-discriminatory treatment of digital products, including coverage of tax measures;
- Ensure that data can be transferred across borders, by all suppliers, including financial service suppliers;
- Facilitate digital transactions by permitting the use of electronic authentication and electronic signatures, while protecting consumers' and businesses' confidential information and guaranteeing that enforceable consumer protections are applied to the digital marketplace;
- Prohibit data localization measures that restrict where data can be stored and processed, enhancing and protecting the global digital ecosystem; and extending these rules to financial service suppliers, in circumstances where a financial regulator has the access to data needed to fulfill its regulatory and supervisory mandate;
- Promote government-to-government collaboration and supplier adherence to common principles in addressing cybersecurity challenges;
- Protect against forced disclosure of proprietary computer source code and algorithms;
- Promote open access to government-generated public data;
- Recognize rules on civil liability with respect to third-party content for Internet platforms that depend on interaction with users;
- Guarantee enforceable consumer protections, including for privacy and unsolicited communication, that apply to the digital marketplace, and promoting the interoperability of enforcement regimes, such as the APEC Cross-Border Privacy Rules system (CBPR); and
- Ensure companies' effective use of encryption technologies and protecting innovation for commercial products that use cryptography, consistent with applicable law.

By setting predictable rules and encouraging a robust market in digital trade between the two countries, the agreement will support increased prosperity and well-paying jobs in the United States and Japan.

# B. Agreements Notified for Negotiation

## 1. United States–European Union Trade Agreement

On October 16, 2018, at the direction of the President, U.S. Trade Representative Robert Lighthizer notified Congress that the Administration intended to initiate negotiations on a trade agreement with the European Union (EU). On November 15, 2018, USTR issued a *Federal Register* notice seeking public comment on a proposed U.S.-EU trade agreement, including U.S. interests and priorities in order to develop U.S. negotiating positions. The period for submission of public comments closed on December 10, 2018. On December 14, 2018, USTR held a public hearing on the proposed U.S.-EU trade agreement. USTR also

consulted extensively with relevant congressional and trade advisory committees on U.S. negotiating objectives and positions. On January 11, 2019, USTR published detailed negotiating objectives for a U.S.-EU trade agreement.

(*See Chapter I.D.2 for further discussion of the proposed United States-European Union Trade Agreement.*)

## 2. United States–Japan Trade Agreement Negotiations

On October 16, 2018, at the direction of the President, U.S. Trade Representative Robert Lighthizer notified Congress that the Administration intended to initiate negotiations on a trade agreement with Japan. On October 26, 2018, USTR issued a *Federal Register* notice seeking public comment on the proposed United States-Japan Trade Agreement (USJTA), including U.S. interests and priorities, in order to develop U.S. negotiating positions. The period for submission of public comments closed on November 26, 2018. On December 10, 2018, USTR held a public hearing on the proposed USJTA. USTR also consulted extensively with relevant congressional and trade advisory committees on U.S. negotiating objectives and positions. On December 21, 2018, USTR published detailed negotiating objectives for the USJTA.

On September 25, 2019, with the announcement of final agreement on early achievements in the USJTA and United States-Japan Digital Trade Agreement, the President of the United States and the Prime Minister of Japan issued a joint statement that included a schedule for the initiation of further USJTA negotiations. Specifically, the leaders agreed as follows: "The United States and Japan intend to conclude consultations within 4 months after the date of entry into force of the United States-Japan Trade Agreement and enter into negotiations thereafter in the areas of customs duties and other restrictions on trade, barriers to trade in services and investment, and other issues in order to promote mutually beneficial, fair, and reciprocal trade." The USJTA entered into force on January 1, 2020. The Administration remains committed to achieving the broad objectives for a comprehensive trade agreement with Japan as outlined in USTR's specific negotiating objectives published in December 2018.

(*See Chapter I.A.2 for details on the initial United States-Japan Trade Agreement*)

## 3. United States–United Kingdom Trade Agreement

Following a national referendum in 2016, the United Kingdom (UK) notified the European Union (EU) in March 2017 of its intention to leave the EU (known as "Brexit"). On January 31, 2020, the UK officially left the EU and entered into a transition period lasting until December 31, 2020. During the transition period, the UK remains in the EU Customs Union and Single Market, but is no longer a Member State of the EU. As such, the UK may negotiate, sign, and ratify independent trade agreements with non-EU countries, but any agreements may not enter into force until after the transition period ends.

In July 2017, the United States and the UK established the United States-United Kingdom Trade and Investment Working Group in order to: explore ways to strengthen trade and investment ties prior to Brexit; ensure that existing U.S.-EU agreements are transitioned to U.S.-UK agreements; lay the groundwork for a potential future free trade agreement once the UK has left the EU; and collaborate on global trade issues. The Working Group has met six times since 2017, most recently in July 2019.

On October 16, 2018, at the direction of the President, U.S. Trade Representative Robert Lighthizer notified Congress that the Administration intended to initiate negotiations on a trade agreement with the UK after the UK has left the EU. On November 16, 2018, USTR issued a *Federal Register* notice seeking public comment on a proposed United States-United Kingdom trade agreement, including U.S. interests and

priorities in order to develop U.S. negotiating positions. The period for submission of public comments closed on January 15, 2019. On January 29, 2019, USTR held a public hearing on the proposed United States-United Kingdom trade agreement. USTR also consulted extensively with relevant congressional and trade advisory committees on U.S. negotiating objectives and positions. On February 28, 2019, USTR published detailed negotiating objectives for a U.S.-UK Trade Agreement.

(*See Chapter I.D.2 for further discussion of the proposed United States-United Kingdom Trade Agreement*.)

# C. Free Trade Agreements in Force

NOTE: The North American Free Trade Agreement (NAFTA) entered into force on January 1, 1994, and remains in effect. It will be replaced by the United States–Mexico–Canada Agreement (USMCA), signed on November 30, 2018 and amended on December 10, 2019, once that agreement enters in force. Information on the NAFTA can be found in *Section I.A.1: Concluded Negotiations – USMCA-NAFTA*.

## 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 2019 to monitor implementation of the FTA and review concerns about market access. In April 2019, USTR and the U.S. Departments of Commerce, Treasury, and State engaged Australia under the United States-Australia FTA Joint Committee to discuss a range of issues, including intellectual property, investment, and digital trade. The United States continues to work closely with Australia to deepen the bilateral trade relationship and coordinate on issues of regional and international importance. Since the FTA entered into force, U.S.-Australia goods and services trade have increased, with bilateral U.S.-Australia trade in services more than tripling. In 2019, the United States had a $15.2 billion goods trade surplus with Australia and an estimated $12.9 billion services trade surplus (based on three quarters data). In 2019, the United States had an estimated $1.9 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. The United States-Bahrain Bilateral Investment Treaty, which took effect in May 2001, covers investment issues between the two countries. In 2019, the United States exported $1.4 billion worth of goods to Bahrain, relative to $2.0 billion the year before, and imported $1.0 billion worth of goods from Bahrain, relative to $991 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.

To manage implementation of the FTA, the agreement establishes a central oversight body, the United States-Bahrain Joint Committee (JC), chaired jointly by the Office of the U.S. Trade Representative and Bahrain's Ministry of Industry and Commerce. Meetings of the JC have addressed a broad range of trade issues, including: (1) efforts to increase bilateral trade and investment levels; (2) efforts to ensure effective implementation of the FTA's customs, investment, and services chapters; (3) possible cooperation in the broader Middle East and North Africa (MENA) region; and (4) additional cooperative efforts related to labor rights and environmental protection.

In 2018, the United States and Bahrain signed a Memorandum of Understanding on Trade in Food and Agriculture Products stating that Bahrain will continue to accept existing U.S. export certifications for food and agricultural products. Bahrain has implemented these commitments.

*Labor*

During 2019, U.S. and Bahraini officials continued to engage on labor rights concerns highlighted during consultations that began in 2013 under the United States-Bahrain FTA. Areas of discussion included: (1) improving Bahrain's capacity to respond to cases of employment discrimination; (2) considering legal amendments to improve the consistency of Bahraini labor laws with international labor standards; (3) enhancing outreach and enforcement of labor laws on freedom of association and collective bargaining; and (4) encouraging regular dialogue among tripartite stakeholders within Bahrain on labor matters. In particular, the United States urged the government of Bahrain to follow up on its commitment to establish a unit within the Ministry of Labor to ensure compliance by employers with employment discrimination laws. In addition, U.S. Government officials held meetings with Bahraini officials to discuss efforts to combat child labor and forced labor in Bahrain.

## 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, prosperity, and stability through the region.

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 $32.8 billion in 2019, compared to $32.7 billion in the year before. In 2019, combined total two-way goods trade between the United States and other CAFTA-DR parties was $58.6 billion, compared to $57.9 billion in the year before. The United States had $6.9 billion trade surplus with the CAFTA-DR countries in 2019, down from $7.5 billion in 2018.

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 in 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 the CAFTA-DR partners have committed to strengthening

trade facilitation, regional supply chains, and implementation of the Agreement. U.S. consumer and industrial goods may enter duty-free in all of the other CAFTA-DR member-country 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. Under the CAFTA-DR, one-third of U.S. agricultural exports to the region are currently subject to tariff rate quotas (TRQs). However, these TRQs will increase annually through 2025, after which the TRQs will be eliminated and the affected products will enter other CAFTA-DR countries duty-free.

*Labor*

Labor Capacity Building

Ongoing labor capacity building activities, including the exchange of views on best practices, support efforts to promote labor rights and improve the enforcement of labor laws in the CAFTA-DR countries. The U.S. Department of Labor (DOL), the U.S. Department of State, and the U.S. Agency for International Development (USAID) have been involved in these capacity building efforts. In 2019, DOL continued to fund technical assistance projects under the CAFTA-DR Labor Cooperation and Capacity Building Mechanism, USAID continued to support activities focused on freedom of association and labor relations as part of its Global Labor Program, and the U.S. Department of State continued funding a program to combat labor violence in Guatemala and Honduras.

Dominican Republic

During 2019, the United States continued to engage with the government of the Dominican Republic, the sugar industry, and civil society groups on the concerns identified in a 2013 DOL report. The report responds to allegations in a public submission that the government of the Dominican Republic had failed to enforce the country's labor laws in the sugar sector. Sugar producers have engaged in the process to varying degrees and have implemented some of the reforms raised in the public submission and recommended in the DOL report. DOL representatives conducted two missions to the Dominican Republic, securing several advances on recommendations contained in the report. In 2019, the Dominican Ministry of Labor conducted direct outreach on labor rights to sugarcane cutters at all three major Dominican sugar companies and sent three inspectors to the Dominican Ministry of Foreign Affairs to learn Creole, which is commonly spoken by workers of Haitian descent. The Ministry of Labor also created child labor committees in sugar-producing regions to involve the local communities in efforts to proactively identify children at risk for exploitation. In addition, the Ministry hired 60 new labor inspectors in June 2019. Much progress has been made; however, procedural and methodological shortcomings in the labor inspections process still remain. In 2019, DOL funded a diagnostic evaluation of the electronic case management system and training plan within the Ministry of Labor. The results of the evaluation were a key input into the work plan for a DOL funded $5 million technical assistance project for the Ministry of Labor designed to improve working conditions and address child labor in the Dominican agriculture sector.

Honduras

In 2015, a report issued by DOL in response to a 2012 public submission under the CAFTA-DR led to the signing of a Labor Rights Monitoring and Action Plan (MAP). Since that time, the United States and the government of Honduras have been working together to fulfill commitments Honduras made in the MAP, including addressing legal and regulatory frameworks for labor rights, undertaking institutional improvements, intensifying targeted enforcement, and improving transparency. Honduras has made some significant progress in implementing the MAP over the past four years, including convening 13 tripartite meetings with private sector and labor stakeholders to discuss progress under the MAP, passing a comprehensive new labor inspection law in January 2017, issuing an implementing regulation for the law

in July 2019, and adopting a child labor referral mechanism in August 2019. In 2019, the U.S. Government conducted five missions to Honduras to follow up on the MAP, including a high-level visit by DOL's Deputy Undersecretary for International Affairs and a USTR official in September. Honduras still needs to improve its capacity for collecting fines assessed under the new inspection law and resolve freedom of association cases in the melon and auto parts sectors.

The U.S. Government is providing a number of technical cooperation projects in Honduras to support employment and labor rights, including the Department of State-funded program to combat labor violence mentioned above. 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, and a $2 million project with the International Labor Organization to combat child labor in the coffee sector.

Costa Rica, El Salvador, and Guatemala

In support of a recent labor law reform in Costa Rica, DOL funds a $2 million technical assistance project to build the capacity of key agencies responsible for enforcing labor laws, particularly the inspectorate and the labor courts, with respect to minimum wages, hours of work, and occupational safety and health in the agricultural export sector. The project promotes access to labor rights by workers in the sector through new mechanisms to file complaints before national administrative and labor courts. DOL continues to fund two technical assistance projects in Costa Rica that support vulnerable and marginalized youth in acquiring the skills to enter the job market, help companies develop apprenticeship or workplace-based training programs for vulnerable youth, and support efforts to strengthen the laws and policies for these programs. With support provided by DOL, the government of Costa Rica enacted legislation to align age requirements for employment programs with the legal age for employment.

In September 2019, El Salvador reactivated the tripartite Higher Labor Council, which has been inactive since 2013. The Higher Labor Council is responsible for carrying out tripartite consultations on international labor standards.

In December 2019, Guatemala's Attorney General's Office established the Office of the Prosecutor for Crimes against Justice Operators and Trade Unionists to investigate and prosecute alleged crimes against trade unionists. Violence against labor union activists continues to be a serious concern, as reported by labor stakeholders, the International Labor Organization, and other international organizations. In October 2019, the U.S. Federal Mediation and Conciliation Service carried out a DOL-funded training on mediation and conciliation techniques with labor inspection supervisors at the Guatemalan Ministry of Labor and Social Welfare. DOL staff traveled to Guatemala to observe parts of the training and to meet with labor stakeholders to monitor compliance with the CAFTA-DR labor obligations, including an introductory meeting with the new Minister of Labor-designee and his staff. DOL funds a $2.5 million technical assistance project to bolster labor law enforcement in Guatemala's agricultural export sectors.

DOL also funded labor-related projects with IMPAQ International, a research institute headquartered in Washington, DC. These projects include a $4 million project on labor market information systems in El Salvador, Guatemala, and Honduras, and a $16.5 million technical assistance project to support vocational training and skill-building for at-risk youth and to prevent exploitative child labor practices in El Salvador and Honduras.

*Environment*

*For a discussion of environment-related activities in 2019, see Chapter III.E.1.*

**Other Implementation Matters**

The CAFTA-DR mechanisms continue to strengthen our trading relationships as we monitor and enforce the agreement with Central America and the Dominican Republic and build U.S. export opportunities. In July and November 2019, the CAFTA-DR Coordinators and other technical Committees, including the Committee on Sanitary and Phytosanitary (SPS) Matters, and the Committee on Technical Barriers to Trade (TBT) met to discuss how to improve transparency, efficiency, and the operation of the agreement to facilitate trade. During these meetings, the CAFTA-DR countries agreed to further discussions to address SPS and TBT issues of priority interest to U.S. exporters and manufacturers.

During the July and November 2019 meetings of the Coordinators Committee, all of the other CAFTA-DR countries encouraged Guatemala to also take the necessary domestic actions to implement the modifications to the product-specific rules of origin (as the other Parties had done during 2018) to reflect the 2017 changes to the Harmonized System (HS) nomenclature, on which the FTC agreed in 2017. 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*. Implementation of the 2017 HS rules of origin update is pending action by Guatemala.

In November 2019, the CAFTA-DR Parties established the Agricultural Review Commission (ARC) in accordance with Article 3.18 of the CAFTA-DR, to review implementation and operation of the Agreement as it relates to trade in agricultural goods. The ARC is comprised of members of the Committee on Agricultural Trade under the CAFTA-DR.

In 2019, the United States also continued to work closely with its CAFTA-DR partners on bilateral and regional matters related to implementation of the Agreement. For example, the U.S. Government continued to work with several CAFTA-DR partners on implementation of agricultural and sanitary and phytosanitary trade matters. The U.S. Government worked to improve the transparency and effectiveness of regulatory and TRQ administration procedures, which has resulted in enhanced market access for U.S. exporters of several agricultural products, including for U.S. dairy products in El Salvador and Honduras, U.S. potatoes in Costa Rica, and U.S. rice in Nicaragua.

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 cable and satellite piracy, geographical indications, and IP enforcement.

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 cost and time of transporting goods across borders within the region's highly integrated manufacturing and supply chain networks.

The FTC further emphasized the need for greater regional integration and agreed to support supply chain systems in the region through several initiatives. The United States is supporting advances in this area through various trade capacity building efforts detailed above. These initiatives include efforts to support the U.S. textile and apparel industry by strengthening utilization of the Agreement and regional supply chains.

**Trade Capacity Building**

In addition to the labor and environment programs discussed above, trade capacity building programs and planning in other areas continued throughout 2019 to promote economic prosperity to mitigate migration from Central America.

During 2019, USAID and other U.S. Government donors, such as the U.S. Departments of Agriculture (USDA), State, and Commerce, and agencies with expertise such as USTR carried out bilateral and regional projects with the CAFTA-DR partner countries to promote economic prosperity and trade facilitation in the region and increasing trade capacity within the CAFTA-DR countries.

During 2019, the U.S. Department of Commerce implemented the trade facilitation program Central America Customs, Border Management, and Supply Chain, which provides technical assistance to the governments of El Salvador, Guatemala, and Honduras on implementing transparency reforms to improve and simplify customs clearance procedures. The program promotes economic prosperity objectives and ensures compliance with the commitments outlined in both the CAFTA-DR and the WTO Trade Facilitation Agreement.

During 2019, U.S. Department of Commerce's Commercial Law Development Program (CLDP) and USTR also continued implementing the program Building El Salvador's Trade and Competitiveness in Textiles and Apparel to Strengthen Trade and Regional Economic Prosperity, which is aimed at improving institutional capacity to support the Salvadoran textile and apparel industry. The Program focuses on cross-cutting issues, such as improving the understanding of CAFTA-DR benefits; implementing effective marketing strategies; strengthening supply chain management; developing products proactively; and sustaining the industry's competitive advantage through stakeholder cooperation and education. The strengthening of the Salvadoran textile and apparel industry will enhance export opportunities for the United States throughout the region. In 2019, CLDP and USTR conducted several workshops (*e.g.*, "Benefitting from the CAFTA-DR") on issues affecting the industry's competitiveness in the context of the global supply chain, utilization of the CAFTA-DR, and the U.S.-regional supply chain.

The McGovern-Dole International Food for Education and Child Nutrition Program helps support education, child development and food security in low-income, food-deficit countries around the globe. USDA's 2019 McGovern-Dole Priority Countries included Nicaragua.

The Borlaug International Agricultural Science and Technology Fellowship Program promotes food security and economic growth by providing training and collaborative research opportunities to fellows from developing and middle-income countries. By improving participants' understanding of agricultural science, the program helps to foster science-based trade policies that improve market access for U.S. agricultural products. In Costa Rica and Nicaragua, the program focused on research methods and technologies to reduce greenhouse gas emissions in the agricultural sector to address resilience to climate change and enhance food security. In El Salvador and Honduras, the program helped to establish a quarantine and non-quarantine program for pests (especially trigoderma glabrum). In Guatemala, the program focused on pest programs; aflatoxin and mycotoxin control and prevention in food grains; methods and technologies for determining amino acid profiles and composition in food as an indicator for protein quality; and providing alternative food options by developing new products or recommending improved nutrition options.

In 2019, USAID continued to implement the Regional Trade and Market Alliances (RTMA) Project. The RTMA Project supports Central American governments and businesses in areas related to coordinated border management and control, customs administration, and border control, information technology, regulatory harmonization, and other mechanisms to increase efficient in cross-border trade. 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. USAID also fostered enhanced public-private dialogue regarding trade facilitation, paving the way for the implementation of the WTO Trade Facilitation Agreement. USAID and the International Finance Corporation (IFC) operationalized a partnership with several Central American Ministries of Health to implement an information technology (IT) platform for mutual recognition of sanitary registries for food and beverage products produced by and traded among Costa Rica, El Salvador, Guatemala, and Honduras.

USAID also has partnered with USDA to continue supporting CAFTA-DR countries so that their private sectors can take advantage of the trade agreement. 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 between the United States and CAFTA-DR members. In addition, USDA delivered 11 training sessions in the region on new requirements for exporting food products to the United States under the Food Safety Modernization Act. By meeting these international export standards, Central America will be able to increase exports and household income.

In 2018, the new Trade Facilitation and Border Management project continued building on USAID's RTMA project. A main component of this new project is the development of a Trade Facilitation Academy, through which government agencies with border management responsibilities and authorities will receive training on topics related to trade facilitation, including under the CAFTA-DR.

## 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 $7.3 billion in 2018 (latest data available), compared to $5.8 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 2019, U.S. goods exports to Chile increased by an estimated 2.6 percent to $15.8 billion and up 480 percent since 2003 (pre-FTA). U.S. goods imports from Chile decreased by 8.7 percent in 2019 to $10.4 billion, but is up 181 percent since 2003. The U.S. goods trade surplus with Chile was an estimated $5.4 billion in 2019. The United States had a services trade surplus of $3.3 billion with Chile in 2018 (latest data available).

U.S. foreign direct investment in Chile (stock) was $26.1 billion in 2018 (latest data available), a 1.0 percent increase from 2017. Mining, finance and insurance, and manufacturing companies lead U.S. direct investment in Chile.

**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 Undersecretariat of International Economic Affairs, or their respective designees. In October 2018, the FTC held its 12th meeting. Both Parties recognized the need to continue dialogue regarding the implementation of Chapter 17 (Intellectual Property Rights) and reaffirmed their commitment to work together to achieve progress. The United States pressed Chile on longstanding intellectual property rights issues and agreed to maintain constant high-level communication to move these issues closer to resolution.

The United States and Chile plan to hold the next meeting of the FTC in 2020.

*Labor*

The United States strengthened its engagement with Chile on labor issues in 2019, including by establishing a cooperative dialogue under the FTA labor cooperation mechanism to exchange information and best practices on labor matters. Under the labor cooperative dialogue, USTR and the Department of Labor (DOL) held technical exchanges with officials from the Chilean Ministries of Trade and Labor on the implementation of FTA labor chapters and strategies to combat child labor. In February 2019, USTR and DOL met with the Chilean Undersecretary for International Economic Affairs to discuss labor issues of interest and areas of possible collaboration.

In 2019, DOL provided funding to the International Labor Organization to support the Chilean government's efforts to implement a new National Child Labor Survey and develop a child labor risk identification model to be implemented in all regions in Chile. In its 2018 report on Findings on the Worst Forms of Child Labor, DOL recognized Chile as having made "moderate advancement" in its efforts to eliminate the worst forms of child labor. The report also noted positive measures taken in the areas of legal framework, labor and criminal law enforcement, coordination of government efforts, government policies, and social programs.

## 5. Colombia

**Overview**

The United States-Colombia Trade Promotion Agreement (CTPA) entered into force on May 15, 2012. The CTPA tariff rates are applied to U.S. products that meet the CTPA's rules of origin. All U.S. consumer and industrial products will be duty free as of January 1, 2021 (reflecting a 10 year phase-out period for certain goods). More than half of U.S. agricultural exports to Colombia became duty free immediately upon entry into force, with virtually all remaining tariffs on U.S. agriculture goods to be eliminated by 2026 (reflecting a 15 year phase -out period). 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 $191 billion in 2018 (latest data available).

The CTPA is a comprehensive free trade agreement that resulted in the significant liberalization of trade in goods and services between the United States and Colombia. The CTPA 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. U.S. two-way goods trade with Colombia totaled an estimated $28.9 billion in 2019, with U.S. goods exports to Colombia totaling $14.8 billion and U.S. goods imports from Colombia totaling $14.1 billion. U.S. exports of agricultural products to Colombia totaled an estimated $2.7 billion in 2019. As of 2018 (latest data available), U.S. services trade with Colombia included $3.7 billion in exports and $3.3 billion in imports. The U.S. goods and services trade surplus with Colombia totaled $3.3 billion in 2018 (latest data available).

**Elements of the United States-Colombia Trade Promotion Agreement**

*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. The United States and Colombia held the second FTC meeting to review implementation, including the July 2018 enactment of copyright law amendments, and operation of the CTPA, in August 2018. The CTPA Committees on Agriculture and Sanitary and Phytosanitary Measures met in 2018 as well. In 2019, the United States and Colombia concluded technical work to update the Agreement's rules of origin to reflect 2007, 2012, and 2017 changes to the Harmonized System (HS) nomenclature. The United States and Colombia signed an FTC Decision in February 2020 formalizing all three sets of updates at the same time. USTR also expects to hold the third FTC meeting to review implementation and operation of the CTPA in 2020.

*Truck Scrappage*

Due to continued U.S. engagement over many years, Colombia ended the "1x1" truck scrappage policy on June 30, 2019. Prior to March 2013, new freight trucks over 10.5 metric tons (mt) could be legally registered in Colombia either by paying a "scrappage fee" to the government, or by demonstrating that an old freight truck of equivalent capacity had been scrapped and its registration cancelled (the "1x1" policy). In March 2013, Colombia eliminated the option to pay the "scrappage fee," which negatively affected previously robust sales of imported trucks (which were generally over 10.5 mt). While the 1x1 policy has now been terminated and U.S. exports have significantly increased, buyers of new trucks who do not scrap a truck continue to be required to pay a registration fee equivalent to 15 percent of the value of the new truck. The United States has encouraged Colombia to ensure that the registration fee is transitional and eliminated in 2021.

*Labor*

The United States engaged with the Colombian government on labor issues throughout 2019, including a focus on Colombia's ongoing efforts to address issues identified in the U.S. Department of Labor's (DOL) January 2017 report on the submission filed under the Labor Chapter of the CTPA in July 2016. The report focused on improving Colombia's 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 2019, the Colombian government took some steps to address the issues raised in the report, including prosecuting cases of homicides of union leaders and members, which was also a key area of concern under the 2011 Colombian Action Plan Related to Labor Rights (Action Plan). Since January 2011, Colombia's judicial system has investigated 205 cases of homicides of unionists, resulting in 49 convictions to date across 38 cases. Also in 2019, the Colombian Ministry of Labor significantly advanced the implementation

of an electronic case management system, which modernizes the national system for tracking and monitoring the application and collection of fines for violations of the labor code. The United States will continue to work closely with Colombia on remaining challenges, including the imposition and collection of fines for illegal subcontracting and inspections in priority sectors under the Action Plan.

In 2019, USTR and DOL officials frequently engaged with officials in Colombia and Washington to discuss labor issues of interest and maintain close coordination, including a joint USTR and DOL trip to Colombia in July to discuss ongoing collaboration and efforts by the Colombian government to address the issues in the DOL report. The DOL maintained a labor attaché at the U.S. Embassy in Bogotá to monitor labor issues and engage with Colombian officials and labor stakeholders, highlighting the Administration's commitment to ensuring close engagement with Colombia on labor rights.

In 2019, the DOL managed technical assistance projects totaling nearly $24 million in funding that aim to improve labor law enforcement in Colombia and promote labor rights covered by the CTPA. For example, these projects help build the capacity of Colombia's Ministry of Labor to improve enforcement of labor laws, engage workers and civil society to strengthen labor law enforcement, and address child labor and working conditions in artisanal and small-scale coal and gold mining.

*Environment*

*For a discussion of environment related activities in 2019, see Chapter III.E.1.*

## 6. Israel

The United States-Israel Free Trade Agreement (FTA) entered into force in 1985 and was the United States' first FTA. It continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency. In 2019, U.S. goods exports to Israel increased 4.9 percent to $14.4 billion from 2018. Since 1985, when the United States-Israel FTA came into force, U.S. exports to Israel have risen by an estimated 538 percent, although in 2019, the United States ran a$5.1 billion bilateral deficit in goods.

The United States-Israel Joint Committee (JC) is the central oversight body for the FTA. At its last meeting in February 2016, the JC explored potential new collaborative efforts to increase bilateral trade and investment. During the meeting, the United States and Israel had noted progress in addressing a number of specific standards-related and customs impediments to bilateral trade and agreed to continue supporting existing dialogues that address these issues. Subsequently, Israel has continued to revise its standards regime, aiming to expand the recognition of standards from internationally respected standards bodies, including those of the United States. In 2019, Israel accepted the Federal Motor Vehicle Safety Standards, allowing U.S.-manufactured vehicles to enter Israel without undergoing retrofits.

At a February 2016 JC meeting, Israel had proposed resuming negotiations on a permanent successor agreement to the current United States-Israel Agreement on Trade in Agricultural Products (ATAP). The current ATAP is the second of two temporary ATAPs that the United States and Israel have negotiated due to a disagreement over interpretation of the FTA that arose after the Uruguay Round was concluded. The first ATAP, negotiated in 1996, allowed for limited preferential tariff treatment. The 2004 successor ATAP achieved modest additional market access for U.S. agricultural products. That ATAP was originally set to remain in effect until the end of 2008, but it has been continued each year since then through a series of one-year extensions. Under the 2004 ATAP, Israel provides the United States less advantageous tariff treatment than the United States provides Israel: the United States provides Israel with duty-free access to 90 percent of agricultural tariff lines, while Israel provides the United States with duty-free access to only

72 percent of agricultural tariff lines. Because of the existing disparities, the United States remains committed to negotiating a balanced permanent successor agreement. The first round of negotiations was held in November 2018 and a second round in March 2019. The United States and Israel will continue these discussions in 2020.

## 7. Jordan

The United States-Jordan partnership remained strong in 2019. A key element of this relationship is the United States-Jordan Free Trade Agreement (FTA), which entered into force on December 17, 2001, and eliminated duties on January 1, 2010.

This FTA further benefits from Qualifying Industrial Zones (QIZs) 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 $1.5 billion in 2019, down 6.8 percent from 2018. 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, in July 2019, the United States pressed Jordan to: (1) eliminate the ban on U.S. genetically modified food products; (2) rely on international, instead of EU; standards for manufactured and industrial products; and (3) to continue to protect geographical indications (GI) through a trademark system instead of adopting EU GI barriers. Jordan also agreed to host a consultative meeting of the FTA sub-committee on labor within a year. Barriers in government procurement remain a concern. The FTA does not contain government procurement commitments, and Jordan is not a party to the WTO Agreement on Government Procurement.

*Labor*

USTR continued to monitor labor rights in Jordan pursuant to labor provisions of the FTA and to work with Jordan in the area of labor standards. USTR and Jordan have previously recognized serious labor concerns in Jordan's garment factories, including anti-union discrimination against foreign workers, poor conditions of accommodations for foreign workers, and gender discrimination and harassment. To address these concerns, in 2013, the United States and Jordan developed the Implementation Plan Related to Working and Living Conditions of Workers in Jordan. Pursuant to its commitments under the Implementation Plan, Jordan has improved the coordination of inspections in garment factory dormitories and continued those improvements in 2019 through additional technical support.

Jordan also passed several amendments to the Labor Law in May 2019, including provisions that made discrimination in wages between men and women illegal, created flex-time to increase female workforce participation, expanded requirements for employer-provided daycare centers, and granted three days of parental leave a year, among other changes. The United States continues to monitor changes in practice from these amendments.

During the year, the Jordanian Ministry of Labor (MOL) also finalized and issued a directive, incorporating input from social stakeholders, to combat sexual harassment and abuse in the workplace. The United States continued to urge the MOL to complete two remaining directives included in the Implementation Plan related to enforcement of laws securing union access to workers in QIZs and preventing anti-union firings.

The MOL continues to work with the United States Department of Labor (DOL) funded International Labor Organization (ILO) Better Work program to improve the understanding of internationally recognized labor

standards and the process for conducting audits in the garment sector. Jordan also worked with Better Work to ensure that factory-level audits are made publicly available and, in 2019, worked to reinforce long-term capacity improvements by seconding 17 of its 160 labor inspectors to the Better Work program.

Additionally, in 2019, DOL expanded an existing train-the-trainers program for MOL officials and social stakeholders to improve mediation and collective bargaining techniques and best practices. DOL also continued to fund the ILO in 2019 to build central and regional government capacity to identify and address child labor.

## 8. United State–Korea Free Trade Agreement

The United States–Korea Free Trade Agreement (KORUS) came into force on March 15, 2012. To rectify shortcomings in KORUS, the Administration negotiated further amendments and modifications to KORUS, which entered into force on January 1, 2019. These amendments and modifications substantially improved market access for U.S. automotive products, while delaying the elimination of U.S. tariffs on trucks, including pickup trucks, until the year 2041. Another outcome of the negotiations addressed long-standing concerns regarding onerous and costly Korean customs verification procedures by agreeing on principles for conducting verification of origin of exports under KORUS and by establishing a working group to monitor and address any future issues that may arise. U.S. goods exports to Korea were $56.9 billion in 2019, while imports were $77.5 billion, creating a deficit of $20.6 billion.

Throughout 2019, USTR continued working to ensure Korea's compliance with its obligations under KORUS.

On March 15, the United States formally requested consultations under Chapter 16 (Competition-Related Matters) to address longstanding U.S. concerns regarding procedural fairness in competition hearings held by the Korea Fair Trade Commission (KFTC). During these consultations, which were held in July, the United States raised concerns about the KFTC's denial of due process rights provided for in KORUS, including the opportunity for respondents to review and rebut the evidence against them. The United States expects that Korea will take appropriate actions in the near future to abide fully by the obligations set out in KORUS.

In September, the United States requested consultations with Korea under the KORUS Environment Chapter to discuss concerns regarding Korea's ability to apply sufficient sanctions to deter its vessels from engaging in fishing activities that violate conservation and management measures (CMMs) adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). The United States and Korea held productive environment consultations on October 17 in Seoul with representatives from Korea's Ministry of Trade, Industry & Energy, Ministry of Oceans and Fisheries, Ministry of Foreign Affairs, and the Korea Coast Guard. Following the consultations, the National Assembly passed key amendments to Korea's Distant Water Fisheries Development Act on October 31 that will enable the Minister of Oceans and Fisheries to administer administrative sanctions for violations, by Korean vessels, of CCAMLR CMMs.

In addition to the formal consultations noted above, the Administration has continued to use the committees and working groups established under KORUS to raise and resolve trade issues and ensure Korea's obligations under the Agreement are being implemented. During 2019, the United States has used these mechanisms to raise and seek progress on problematic Korean measures in areas such as cross-border data transfers, labor rights, chemical regulation, automotive regulations, various sanitary and phytosanitary measures, and pharmaceutical pricing and reimbursement, among others.

## 9. 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 a number of agricultural and industrial sectors.

Since the entry into force of the FTA, two-way U.S.-Morocco trade in goods has grown from $970 million in 2005 (the year prior to entry into force) to $5.1 billion in 2019. U.S. goods exports to Morocco in 2019 were an estimated $3.5 billion, up an estimated 16 percent from the previous year. Corresponding U.S. imports from Morocco in 2019 were an estimated $1.6 billion, up an estimated 2 percent from 2018. Services trade in 2018 (the most recent year available) included $965 million in exports and $969 million in imports.

The United States and Morocco held the sixth meeting of the FTA Joint Committee on July 16, 2019, in Rabat. Discussions focused on various agricultural and sanitary and phytosanitary (SPS) issues, geographical indications, a number of tax and customs issues, intellectual property protection, and certain textile and apparel cases. Throughout 2019, U.S. and Moroccan officials engaged in constructive dialogue on how to enhance engagement between American and Moroccan textile and apparel firms.

*Agriculture and Sanitary/Phytosanitary Issues*

At the United States-Morocco FTA Agriculture and SPS Subcommittee meeting held in June 2019, Morocco and the United States agreed to specific actions to improve access for U.S. wheat into Morocco by increasing tenders and improving the administration of the FTA's wheat TRQ. Following this meeting, the United States and Morocco finalized certificates for the exportation to Morocco of bovine genetics and U.S. egg products and Morocco held technical discussions with U.S. Government officials on food safety issues. The recent engagement with Morocco follows a number of close engagements with Morocco since 2017, when Morocco signaled its willingness to resolve agricultural market access issues that had been outstanding since the FTA entered into force. In 2018, the United States and Morocco negotiated export certificates for U.S. beef and poultry, opening Morocco's market for both products. Morocco also committed to accelerate the tariff phase out for approximately 40 tariff lines affecting wheat, beef, and poultry products where Morocco applies a lower duty on imports from the EU. (*See Chapter III.B for further information*.)

*Labor*

During 2019, Morocco continued to implement a new domestic worker law, which 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. The law addresses an area of concern raised by the United States during the 2017 and 2019 FTA Joint Committee meetings. The U.S. Department of Labor continued to fund a project under the FTA labor cooperation mechanism to support the government of Morocco's efforts to implement and enforce the new domestic worker law. In addition, the Government of Morocco continued to implement recent reforms made under the 2016 Law on Trafficking in Human Beings, including by establishing an inter-ministerial anti-trafficking commission, which is expected to improve and facilitate enforcement efforts against all forms of human trafficking. U.S. trade and labor officials traveled to Morocco during 2019 to discuss ongoing collaboration and efforts by the Moroccan government to combat child labor. U.S. officials also held meetings with Moroccan labor stakeholder and business representatives.

## 10. Oman

The United States-Oman Free Trade Agreement (FTA), which entered into force on January 1, 2009, complements other U.S. FTAs in the broader Middle East and North Africa (MENA) region to promote economic reform and openness throughout the region. Under the FTA, Oman provides duty-free access on all industrial and consumer products, and comprehensive obligations for services and investment. 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 $3.1 billion in 2019. In 2019, the United States exported $1.9 billion worth of goods to Oman, down 19.8 percent from the year before, and imported $1.2 billion worth of goods from Oman, down 9.1 percent from 2018.

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.

*Labor*

As a result of major labor reforms that Oman enacted in the context of entry into force of the FTA, the General Federation of Oman Workers was formed in 2006, which allowed independent unions in Oman for the first time. Oman has since seen an increase in unionization with over 260 enterprise-level unions and several sectoral sub-federations for trade unions established, including in the oil, gas, and industrial sectors. During 2019, USTR and the U.S. Department of Labor (DOL) continued to monitor labor rights in Oman pursuant to labor provisions of the FTA. Throughout the year, the government of Oman continued to implement the two-year Decent Work Country Program in cooperation with the International Labor Organization, which focuses on three priority areas: social protection; employment, skills, and entrepreneurship development; and international labor standards and labor governance. In its annual report on Finding on the Worst Forms of Child Labor, released in 2019, the DOL recognized Oman as having made "moderate advancement" in its efforts to eliminate the worst forms of child labor. The report also noted positive measures taken by Oman in the areas of legal framework, labor and criminal law enforcement, coordination of government efforts, and government policies.

## 11. Panama

**Overview**

The United States-Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012. The TPA tariff rates are applied to U.S. products that meet the TPA's rules of origin. All U.S. consumer and industrial products will be duty free as of January 1, 2021 (10-year phase out period). Nearly half of U.S. agricultural exports immediately became duty free, with most remaining tariffs on U.S. agricultural goods to be eliminated by January 1, 2026 (15-year phase out period). Tariffs on a few most sensitive agricultural products will be phased out in 18 to 20 years. The TPA also provides new access to Panama's estimated $42 billion services market in 2018 (latest data available).

The TPA is a comprehensive free trade agreement that resulted in the significant liberalization of trade in goods and services between the United States and Panama. The U.S. goods and services trade surplus with Panama totals $10.4 billion in 2018 (latest data available).

The TPA 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 protection. U.S. two-way goods trade with Panama totaled $8.2 billion in 2019, with U.S. goods exports to Panama totaling $7.7 billion, while U.S. goods imports from Panama totaled $452 million. U.S. exports of agricultural products to Panama totaled $760 million in 2019. As of 2018 (latest data available), U.S. services trade with Panama included $1.7 billion in exports and $1.5 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 2019 to address the few remaining implementation issues, which were generally addressed at the technical level, resulting in new opportunities for traders and investors and agreed on next steps for ongoing issues. The United States intends to schedule the next FTC meeting in 2020. The United States and Panama are close to finalizing changes that modify the rules of origin to reflect the 2017 Harmonized System (HS) nomenclature changes with the expectation that modified rules of origin will enter into force in 2020.

*Labor*

U.S. Department of Labor (DOL) officials met with Panamanian Ministry of Labor officials in September 2019 and discussed various labor law enforcement issues, including child labor and labor inspection. In addition, DOL had two active technical assistance projects to combat child labor in Panama.

*Environment*

*For a discussion of environment related activities in 2019, see Chapter III.E.1.*

## 12. 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 continue to reduce duties each January 1, with all remaining tariffs, which apply only to select agricultural products, to be eliminated 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 $3.5 billion in 2019.

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 2019, U.S. goods exports to Peru

totaled $9.7 billion, down 0.4 percent from the year before, while U.S. goods imports from Peru totaled $6.1 billion, down 22.1 percent from 2017. U.S. exports of agricultural products to Peru totaled $960 million in 2018.

U.S. foreign direct investment in Peru (stock), primarily in the mining, manufacturing, and wholesale sectors, was $6.4 billion in 2018 (latest data available), a 0.5 percent increase from 2017.

**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. In 2019, the Committee on Sanitary and Phytosanitary Matters met. The United States has continued to work with Peru on logging issues under the Annex on Forest Sector Governance (Forest Annex). The Forest Annex includes concrete steps to take 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 of producers and exporters, as well as verifications of particular timber shipments upon request from the United States.

The United States and Peru plan to hold the next meeting of the FTC in 2020.

*Agriculture*

In November 2018, Peru's National Institute for the Defense of Free Competition and the Protection of Intellectual Property (INDECOPI) concluded a countervailing duty investigation into the import of U.S. ethanol. While INDECOPI ruled in favor of the domestic industry and imposed countervailing duties of roughly 10 percent on imported U.S. ethanol, the United States successfully worked with U.S. industry to provide critical input for INDECOPI's investigation, resulting in a far lower rate than the roughly 25 percent rate that the Peruvian industry had petitioned for. The United States is currently appealing INDECOPI's final determination. U.S. exports of ethanol to Peru in 2019 totaled $85 million, up 23 percent from $69 million in 2018.

Peru initiated a separate countervailing duty investigation into imports of U.S. corn in July 2018. Following extensive U.S. government and stakeholder engagement, Peru issued its final ruling in late January 2020, determining that the imposition of duties was not justified in this case. U.S. exports of corn to Peru in 2019 totaled $178 million.

*Labor*

Throughout 2019, the U.S. Government continued to engage with the government of Peru on the issues identified in the U.S. Department of Labor (DOL) March 2016 report in response to a July 2015 public communication under the PTPA Labor Chapter. 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. USTR, DOL, and the Department of State continue to engage with the government of Peru to review progress on addressing the issues identified in the report. In April 2019, USTR and DOL traveled to Peru for this purpose. During 2019, Peru reported that it opened two new offices of the federal labor inspectorate (SUNAFIL), raised the budget for SUNAFIL by 23 percent, and increased the number of labor inspectors to 686, an expansion of approximately 50 percent since 2015.

In 2019, DOL funded over $22 million in programming across four technical assistance projects to help improve Peru's enforcement of labor laws and compliance with the PTPA Labor Chapter, including one that engaged workers and civil society to strengthen labor law enforcement. The remaining projects focused on reducing child labor and forced labor, including by assisting the Peruvian government and labor stakeholders to build their capacity to prevent, detect, and eliminate forced labor and labor trafficking in agricultural and rural areas.

In its 2018 report on Findings on the Worst Forms of Child Labor, DOL recognized Peru as having made "moderate advancement" in its efforts to eliminate the worst forms of child labor. The report noted that the government renewed the National Plan to Combat Forced Labor and the National Policy against Trafficking in Persons, and increased inspection efforts. However, collection of fines for labor violations, including child labor, continues to be a challenge.

*Environment*

In January 2019, the United States acted swiftly in response to Peruvian action to move the Agency for the Supervision of Forest Resources and Wildlife (OSINFOR) to a subordinate position within Peru's Ministry of Environment by requesting the first ever environment consultations under the PTPA. The United States and Peru held technical level consultations and a senior level Environmental Affairs Council meeting in an effort to resolve the matter. In April 2019, Peru annulled its decision to move OSINFOR.

In July 2019, the United States took action to block future timber imports from a Peruvian exporter, based on illegally harvested timber found in its supply chain. This action was taken on behalf of the Interagency Committee on Trade in Timber Products from Peru (Timber Committee) following a 2018 verification exercise that revealed illegality in an earlier timber shipment from Peru to the United States.

In 2020, USTR and other agencies will continue to engage closely with Peru to address the range of challenges to combating illegal logging.

*For further discussion of environment related activities in 2019, see Chapter III.E.1.*

## 13. Singapore

The United States-Singapore Free Trade Agreement (FTA) entered into force on January 1, 2004. The bilateral FTA has led to expanded trade, enhanced joint prosperity, and has strengthened broader relations for the benefit of both countries. In March 2019, the United States and Singapore convened an FTA Joint Committee Meeting in Washington, DC, where both countries discussed a variety of pressing issues, including sanitary and phytosanitary measures, geographical indications regulations, and digital trade. The United States continues to work closely with Singapore to deepen the bilateral trade relationship and coordinate on issues of regional and international importance. Since entry into force of the FTA, the United States has maintained consistent trade surpluses in both goods and services with Singapore. In 2019, the U.S. goods surplus was $5.2 billion, and the U.S. services surplus in 2018 (latest data available) was $12.3 billion.

# D. Other Negotiating Initiatives

## 1. The Americas

**Trade and Investment Framework Agreements and other Bilateral Trade Mechanisms**

The Office of the United States Trade Representative (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) in force with Argentina, the Caribbean Community, Uruguay, and has signed a TIFA with Paraguay. The United States and Ecuador have signed a Trade and Investment Council Agreement. With Brazil, the United States has in force an Agreement on Trade and Economic Cooperation (ATEC).

In 2019, the United States continued its engagement with its non-FTA partners in the region aimed at fostering bilateral trade relations and resolving trade problems. The activities below describe the key outcomes that advance the U.S. trade and investment agenda with these countries.

*Argentina*

The United States and Argentina signed a TIFA, which established the United States-Argentina Council on Trade and Investment, in March 2016. The Council serves as a venue for engagement on a broad range of bilateral trade issues, such as market access, intellectual property rights (IPR) protection, and cooperation on shared objectives at the WTO and other multilateral fora. The most recent meeting of the Council was held in Washington, D.C. in October 2018.

In 2016, the Council established the Innovation and Creativity Forum for Economic Development (the Forum) to discuss issues of mutual interest, including geographical indications, industrial designs, and the importance of intellectual property protections for SMEs. In 2019, the United States and Argentina held the fifth meeting of the Forum, in Buenos Aires.

Both the Council and the Forum are expected to meet in 2020.

*Brazil*

Bilateral dialogue with Brazil is conducted through the United States-Brazil Commission on Economic and Trade Relations (the Commission), established by the ATEC. The ATEC is a forum to deepen bilateral engagement and expand the trade and investment relationship on a broad range of issues, including trade facilitation, IPR and innovation, and technical barriers to trade. In March 2019, President Trump and President Bolsonaro directed enhanced work under the ATEC to explore new initiatives to facilitate trade, investment, and good regulatory practices. During 2019, USTR has engaged with Brazil to reestablish ties and prepare for a Ministerial level ATEC meeting in 2020. With Brazil undertaking important economic initiatives to cut the cost of doing business, there are important opportunities to promote bilateral trade. The United States also expressed support for Brazil to begin the process of accession to the OECD.

*Caribbean Community (CARICOM)*

The United States and CARICOM signed a TIFA, updating a 1991 Trade and Investment Council Agreement, in May 2013. The eighth meeting under the TIFA was held in June 2019 in Miami, attended by the United States, Antigua and Barbuda, The Bahamas, Barbados, Belize, Guyana, Haiti, Jamaica, Saint

Lucia, St. Kitts and Nevis, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago. The next meeting is expected to be held in 2020 in the Caribbean.

The 17 CARICOM member countries and territories are beneficiaries of the Caribbean Basin Initiative (CBI), launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA). CBERA facilitates the development of stable Caribbean Basin economies by providing beneficiary countries with duty-free access to the U.S. market for many goods. CBERA was expanded in 2000 by the U.S.-Caribbean Basin Trade Partnership Act (CBTPA). CBTPA has been renewed several times since it was enacted in 2000 and is set to expire September 30, 2020, absent action by Congress on pending legislation.

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. 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.

*Ecuador*

The United States and Ecuador signed the United States-Ecuador Trade and Investment Council (TIC) Agreement, which established a forum for the discussion of trade and investment matters between the two governments, in 1990. The TIC was inactive from 2009 to 2017. The United States and Ecuador reactivated the TIC in 2018 with a renewed mandate to deepen engagement. The Council subsequently established six working groups: (1) intellectual property; (2) agriculture; (3) market access, customs, and trade facilitation; (4) labor; (5) environment; and, (6) investment, services, and digital trade. The working groups held videoconferences throughout 2019 and in December of 2019, the agriculture, labor, environment, and investment working groups met in Quito. The next TIC meeting is expected in early 2020.

*Paraguay*

The United States and Paraguay signed a TIFA in January 2017. The first meeting under the TIFA is planned for 2020, after its entry into force. In June 2015, the United States and Paraguay signed a Memorandum of Understanding (MOU) 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. However, in 2019, Paraguay was returned to the Special 301 Watch List for failing to meet key commitments. In December 2019, during the visit to the White House, Paraguayan President Benitez reaffirmed his willingness to continue strengthening intellectual property protections in Paraguay. In addition, President Trump and President Benitez endorsed working within the TIFA in order to promote investment in Paraguay and to increase bilateral trade.

*Uruguay*

The United States hosted the most recent meeting under the United States-Uruguay TIFA, which was signed in 2007. During that meeting in June 2019, 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 is expected to be held in Montevideo in 2020.

## 2. Europe and the Middle East

The United States uses FTAs, bilateral investment treaties (BITs), TIFAs, and other mechanisms to engage with the European Union (EU) and its 27 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 World Trade Organization (WTO) (*see Chapter IV.J.6. for more information on WTO accessions*).

During 2019, USTR engaged with the EU to reduce regulatory and other barriers to U.S. exports and strengthen cooperation on global trade issues and third countries of common concern, especially China. USTR also continued to engage the United Kingdom through the United States-United Kingdom Trade and Investment Working Group. (*See Chapter I.B.3. for more information on the U.S.-UK Trade and Investment Working Group.*) In 2019, USTR also pressed Russia to implement fully its WTO commitments and promoted policies in Eurasia to open markets to U.S. exports and to support economic diversity and independence. USTR's efforts in the Middle East and North Africa region centered on ongoing political and economic reforms, with a view toward encouraging countries to open their markets to U.S. companies.

**Deepening United States-European Union Trade and Investment Relations**

The U.S. trade and investment relationship[2] 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 $6.1 billion each day of 2019, in trade based on the first three quarters of 2019. The total stock of transatlantic investment was $5.9 trillion in 2018 (latest data available).

On July 25, 2018, President Trump and European Commission President Juncker announced the formation of an Executive Working Group to work on a new and wide-ranging approach to eliminate tariff and non-tariff barriers and increase trade. The EU agreed to reduce barriers to the import of U.S. soybeans and to increase purchases of liquefied natural gas. President Trump and President Juncker also instructed the Executive Working Group to focus on non-tariff barriers to transatlantic trade, with particular attention to technical barriers to trade. The United States and the EU also have intensified collaboration aimed at better protecting American and European companies from the unfair trading practices of China and other countries.

In October 2018, USTR notified Congress that the Administration intended to enter into negotiations of a trade agreement with the EU. (*See Chapter I.B.1 for further discussion of the proposed United States-European Union Trade Agreement*.)

Negotiations on tariffs did not make progress in 2019 because the EU would not agree to consider reductions in tariffs on agricultural products, which for the United States is an essential requirement in any comprehensive tariff negotiation. On the other hand, the United States and the EU made modest progress on non-tariff barriers in 2019. Each side developed a text proposal for an agreement on conformity assessment that would enable U.S.-based bodies to test U.S.-manufactured products for conformity with EU technical regulations. The two sides also discussed the use of standards in their respective regulatory systems, with a view to reducing barriers to exports and costs to manufacturers and to increasing trade.

[2] Transatlantic trade data for full year 2019 reflect EU-28 data, since the United Kingdom officially left the EU on January 31, 2020.

During 2019, the United States, the EU, and Japan cooperated closely on issues involving China, including China's policies to force technology transfer and its subsidies and support for state enterprises and shared concerns about a number of non-market features of China's economy and policies.

**Deepening United States-United Kingdom Trade and Investment Relations**

Following a national referendum in 2016, the United Kingdom (UK) notified the EU in March 2017 of its intention to leave the EU (known as "Brexit"). The UK subsequently officially withdrew from the EU and the European Atomic Energy Community on January 31, 2020.

In July 2017, the United States and the UK established the U.S.-UK Trade and Investment Working Group in order to explore ways to strengthen trade and investment ties prior to Brexit; ensure that existing U.S.-EU agreements are transitioned to U.S.-UK agreements; lay the groundwork for a potential future free trade agreement once the UK has left the EU; and collaborate on global trade issues. The Working Group has met six times since 2017, most recently in July 2019. As part of its efforts to deepen U.S.-UK trade relations, the Working Group established the U.S.-UK Small and Medium-sized Enterprises Dialogue in March 2018 and has met four times since then. The SME Dialogue produced several tools to assist SMEs to better understand how to export to each other's markets and protect their intellectual properties abroad.

In October 2018, USTR notified Congress that the Administration intended to enter into negotiations of a trade agreement with the UK after the UK exited the EU and on February 28, 2019, USTR published detailed negotiating objectives for a U.S.-UK Trade Agreement. (*See Chapter I.B.3 for further discussion of the proposed United States-United Kingdom Trade Agreement*.)

**Ongoing Engagement with Turkey and the Middle East and North Africa**

The rapid changes and political instability that have engulfed the Middle East and North Africa (MENA) region over the past decade presented new opportunities and posed new challenges with respect to U.S. trade and investment relations with MENA countries. The region has seen uneven progress on economic and trade reforms, and many of the underlying economic drivers of political and social instability have yet to be addressed. 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 long-term trade and investment ties with regional trading partners.

In 2019, the United States continued to monitor, implement, and enforce existing U.S. FTAs in the region (Bahrain, Israel, Jordan, Morocco, and Oman) and pursued consultations with Egypt and Tunisia under bilateral TIFAs.

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 United States-Gulf Cooperation Council 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.

Due to the prominence of broader foreign policy issues in U.S.-Turkey engagement during 2019, progress on economic matters was limited, though President Trump and Turkey's President Erdogan announced their joint interest in boosting two-way trade. Key issues of focus with Turkey remain the openness of the digital economy, intellectual property protection and enforcement, and the reduction of various market access barriers for both goods and services.

**Supporting Economic Stability and Growth in Eurasia**

Many of the countries in Eurasia continued to face challenges as they worked to diversify their markets and protect their economic security, despite occasional adverse headwinds. In 2019, the United States supported those countries' efforts to adopt policies to create a predictable and transparent business environment, based on the rule of law.

In 2019, the United States worked with the countries located between the EU and Russia on a variety of initiatives to bolster mutually beneficial economic growth. The activities below describe the key outcomes that advance the U.S. trade and investment agenda with these countries.

USTR and other U.S. Government officials held a number of meetings with their Ukrainian counterparts, culminating in the ninth meeting of the United States-Ukraine Trade and Investment Council. The delegations discussed a range of issues, including steps to remove regulatory barriers to U.S. exports and improve the investment environment in Ukraine. In recognition of Ukraine's tangible progress on intellectual property rights, the United States restored a portion of Ukraine's GSP privileges. Also in 2019, the largest U.S. Government economic delegation ever to visit Moldova attended the fourth meeting of the United States-Moldova Joint Commercial Commission, at which the delegations identified concrete steps to enhance bilateral trade and foster increased investment. The United States also maintained expert-level discussions with government officials of Georgia and Armenia on removing market access barriers in those respective countries.

Throughout 2019, the United States continued to limit its bilateral engagement with Russia as a result of Russia's aggression in Ukraine and attempted annexation of Crimea. Nevertheless, as Russia continued to pursue industrial policies based on import substitution and local content requirements, the United States continued to identify and oppose those policies. The United States also exposed and challenged various other protectionist policies of Russia, including highlighting the potential WTO inconsistency of Russia's protectionist trade policies. (*See USTR's 2019 Report on Russia's WTO Compliance* for further information.) The United States also monitored the policies and practices of the Eurasian Economic Commission (the administrative arm of the Eurasian Economic Union, composed of Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Russia) to ensure compliance with WTO rules.

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

**Japan**

The Administration remains committed to achieving a fair and reciprocal trading relationship with Japan, including through access for American exports to Japan's markets that addresses chronic trade barriers and trade imbalances with Japan.

Throughout 2019, USTR held extensive negotiations with Japan, culminating in the October 2019 signing of the United States-Japan Trade Agreement (USJTA) and the United States-Japan Digital Trade Agreement (USJDTA). (*See Chapters I.A.2 and I.B.2 for discussion of the USJTA and USJDTA, as well as on the ongoing USJTA negotiations.*)

Several improvements requested by the United States during bilateral talks under the 2018 United States-Japan Economic Dialogue's trade and investment pillar also were achieved in 2019. These include reopening of the Japanese market to exports of U.S. beef from cattle of all ages, as well as revisions to

Japan's Procedures to Introduce Supercomputers on supercomputer procurement to reflect technological advances and prevent the Procedures from becoming periodically outdated.

The United States worked closely with Japan in various fora during 2019 to address trade issues of common interest, including those in third-country markets. For example, the United States and Japan have been working together in the plurilateral Digital Trade Initiative negotiations at the World Trade Organization (WTO) as well as within the Asia-Pacific Economic Cooperation (APEC) forum to advance various issues, including digital trade.

Throughout 2019, the United States, Japan, and the European Union (EU) also coordinated efforts to address non-market economic policies and practices that harm our workers and businesses and undermine a fair and reciprocal global trading system. U.S. Trade Representative Lighthizer, together with ministers from Japan and the EU, held trilateral meetings in January and May 2019, during which they advanced work on possible measures to address non-market-oriented policies and practices of third countries that lead to severe overcapacity, create unfair competitive conditions for their workers and businesses, hinder the development and use of innovative technologies, and undermine the proper functioning of international trade, including where existing rules are not effective.

**Republic of Korea (Korea)**

USTR continues to engage actively with counterparts in the Korean government through committee meetings and working groups established under the United States-Korea Free Trade Agreement (KORUS FTA) in order to address trade issues as they arise. USTR also continues to hold bilateral consultations with Korea under a range of KORUS FTA committees and working groups, as well as on an *ad hoc* basis, to address existing and emerging bilateral trade issues. These meetings are augmented by senior-level engagement. In 2019, the United States raised and addressed a number of outstanding issues with Korea, including certain issues related to automobile greenhouse gas emission standards, fishing activities, agriculture, pharmaceuticals, chemicals, and information technology services. (*See Chapter I.C.8 for further discussion of the United States-Korea Free Trade Agreement.*)

**Asia-Pacific Economic Cooperation (APEC) Forum**

Since its founding in 1989, U.S. participation in the APEC forum has substantially contributed to steps that have led to lowering barriers to U.S. exports across the region.

In 2019, Chile hosted APEC under the theme "Connecting People, Building the Future." Major outcomes for Chile's host year included the APEC Roadmap on Marine Debris; APEC Roadmap on Illegal, Unreported, and Unregulated (IUU) Fishing; and Santiago Roadmap for Women and Inclusive Growth. The activities below describe the key outcomes that advance the U.S. trade and investment agenda in the region.

*Digital Trade*: The United States continued to support an ambitious digital trade agenda within APEC in 2019. This included the establishment of the Building Blocks for Facilitating Digital Trade Pathfinder, championed by the United States. These building blocks aim to promote policies among APEC economies to prevent barriers to digital trade. The United States will continue to seek broader participation by APEC economies in the initiative, which is supported by a majority of APEC economies. The United States will also work with other APEC economies to continue development of this initiative through policy dialogues and capacity building activities. Work in the digital trade area in 2019 also focused on another U.S. priority: expanding participation in the APEC Cross-Border Privacy Rules System and fostering support for the 2016 commitment by 12 APEC economies on a permanent customs duty moratorium on electronic transmissions.

*Trade Facilitation*: In 2019, the United States continued to support an array of trade facilitation efforts within APEC, including through initiatives that help support implementation of the WTO Trade Facilitation Agreement. APEC's work in these areas helps make it significantly cheaper, easier, and faster for U.S. exporters to access markets across the Asia-Pacific region. In 2019, APEC economies participated in a number of projects, including in areas such as advance rulings and expedited shipments, as well as transparency and publication of customs requirements. These projects are designed to improve efficiencies and reduce costs and delays that hinder U.S. exports.

*Services*: The United States continued to strongly support steady progress in APEC on implementing its Services Competitiveness Roadmap, primarily through the development of an APEC-wide Services Trade Restrictiveness Index (STRI). This index, modeled after the existing Organization for Economic Cooperation and Development (OECD) STRI, which already includes data on twelve APEC economies, would be expanded to add new APEC economies. With respect to domestic services regulations, the United States is supporting work in APEC to implement the non-binding principles on domestic regulations in services endorsed in 2018.

*Good Regulatory Practices*: In 2019, APEC economies built on earlier work related to good regulatory practices, including regulatory transparency. In August 2019, the United States worked closely with Chile to assist with the Twelfth Conference on Good Regulatory Practices, which included sessions on transparency and public comment, the work of the WTO, and inquiry point operations.

*Food and Agricultural Trade*: In 2019, the United States worked with other APEC economies to promote transparency with respect to sanitary and phytosanitary measures and acceptance of new technologies, and to address unwarranted non-tariff measures that affect agricultural trade. The United States also served as the project overseer for two projects under the APEC Food Safety Cooperation Forum, an effort that strengthens capacity in food safety. The United States organized workshops on maximum residue level (MRL) harmonization and food export certificates. Also, as of 2019, two APEC economies continued to use the APEC Model Wine Export Certificate developed by the APEC Wine Regulatory Forum in 2016. One APEC economy reported a dramatic drop in time spent processing documentation for wine exports as a result of use of the certificate. Greater use of risk-based, scientific principles for food export certificates and adoption of the model wine certificate, where appropriate, could reduce administrative burdens on producers and traders.

*Intellectual Property*: In 2019, the United States continued to use APEC to build capacity and raise standards for the protection and enforcement of intellectual property in the Asia-Pacific region. This included a United States-led seminar on the benefits of patent grace period harmonization in the APEC region to foster innovation.

*Free Trade Area of the Asia-Pacific (FTAAP)*: The United States continued to advocate for work on topics designed to foster free and fair trade in the region, including addressing issues presented by state-owned enterprises and advancing high-standard labor provisions. Work related to the FTAAP has the potential to 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.

## 4. China, Hong Kong, Taiwan, and Mongolia

### China

*See USTR's 2019 Report to Congress on China's WTO Compliance*.

**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. However, one area of concern hinders these efforts. While Hong Kong generally provides robust protection and enforcement of intellectual property, the copyright system has not been updated since 2010, leaving the market vulnerable to digital copyright piracy. The United States will continue to press Hong Kong to remedy this situation.

**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 last 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 (IP), 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 IP, including with respect to: (1) digital piracy; (2) pharmaceuticals; (3) medical devices; and (4) registration of chemical substances. With respect to IP, the TIFA talks took stock of progress on pharmaceutical patent protection and committed to strengthen engagement on Taiwan's IP 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 and September 2018, 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 and agreed to a Digital Anti-Piracy Work Plan. During these meetings, the United States continued to express serious concerns about Taiwan's agricultural policies that are not based on 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, 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 also raised concerns regarding Taiwan's 2016 TIFA commitment to establish an effective mechanism for the early resolution of potential patent disputes for all pharmaceuticals. Final implementing regulations establishing such a mechanism entered into force in August 2019.

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, IP issues, 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 IP Working Group and 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**

In September 2013, the United States and Mongolia signed a bilateral transparency agreement. That agreement entered into force in March 2017. The 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.

The United States and Mongolia held a sixth TIFA meeting in Washington, D.C., in April 2019. The two sides discussed a range of bilateral trade and investment issues, including transparency, the investment climate, intellectual property protection, trade in cashmere, the U.S. Generalized System of Preferences, trade facilitation, and trade promotion.

The United States will continue to work on trade and investment issues under the TIFA framework with Mongolia and is currently exploring the timing of the next TIFA meeting. A key agenda item of the next meeting will be a review of Mongolia's implementation of the transparency agreement.

## 5. Southeast Asia and the Pacific

**Free Trade Agreements**

Throughout the year, the United States continued to monitor and enforce its free trade agreements (FTAs) with Australia and Singapore. (*See Chapter I.C.1 and I.C.13, respectively, for additional information*).

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

Under the Trump Administration's Indo-Pacific Strategy, the United States is working with countries across Southeast Asia and the Pacific to strengthen regional trade and security. In support of these objectives, the United States met throughout 2019 with countries in Southeast Asia and the Pacific to pursue trade outcomes that will increase U.S. economic growth, promote job creation in the United States, ensure reciprocity, reduce the U.S. goods deficit, and expand U.S. exports.

In addition to the FTAs with Australia and Singapore, the United States currently has bilateral trade and investment framework agreements (TIFAs) with Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, New Zealand, Philippines, Thailand, and Vietnam.

In 2019 USTR's activities in the region focused on confronting structural barriers to ASEAN markets, leveling the playing field for U.S. exporters, countering China's economic influence in the region, and targeting unfair trade practices that underpin trade deficits. Notable engagements include:

- The United States continued to review Indonesia's Generalized System of Preferences (GSP) eligibility based on concerns related to its compliance with the GSP market access criterion and GSP services and investment criterion. This review has sought to ensure the removal of market access barriers to U.S. goods and services.
- In 2019, the United States announced the suspension of $1.3 billion in trade preferences under the GSP for Thailand based on its failure to adequately provide worker rights, and continued to review

Thailand's GSP eligibility based on concerns related to imports restrictions on U.S. pork and its compliance with the GSP market access criterion.

- The United States worked to address priority market access issues in TIFA meetings and other engagements with nearly all other countries in Southeast Asia including Brunei, Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Thailand, and Vietnam.
- In March 2019, the United States and Singapore convened a Joint Committee Meeting under the bilateral FTA to discuss a range of issues, including agriculture, intellectual property (IP), and digital trade.
- In April, the United States and Australia convened a Joint Committee Meeting under the FTA to discuss a range of issues, including IP, investment, and digital trade.

The United States also used TIFA meetings and other mechanisms in 2019 to encourage important trade policy reforms by partners in Southeast Asia. For example, with respect to Malaysia, the United States extended the Special 301 Out-of-Cycle Review in 2019 to consider the extent to which Malaysia is providing adequate and effective IP protection and enforcement, particularly for patents.

**U.S.-ASEAN Trade and Investment Framework Arrangement**

The United States continued to work with the Association of Southeast Asian Nations (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. In 2019, the United States: continued cooperation with ASEAN on agriculture biotechnology, launched new discussions on electric vehicles and associated infrastructure, and continued work on establishing common approaches to digital trade, including encouraging of free flow of data and discouraging localization requirements. Working with Singapore under the Third Country Training Program, the United States also provided training on implementation of the WTO Trade Facilitation Agreement in 2019.

## 6. Sub-Saharan Africa

**Overview**

Throughout 2019, USTR worked to strengthen U.S. trade and investment interests across sub-Saharan Africa. This work included: participating in the 2019 U.S.-Africa Trade and Economic Cooperation Forum, informally known as the African Growth and Opportunity Act (AGOA) Forum, in Abidjan, Côte d'Ivoire; managing the annual interagency AGOA country eligibility review to ensure that countries receiving AGOA preferences were in compliance with the statutory requirements; and working to resolve trade and investment barriers across the continent.

Total two-way goods trade with Sub-Saharan Africa was $37 billion in 2019, exports were $15.7 billion, down 0.9 percent from 2018, while imports were $25.0 billion, down 16.2 percent from 2018.

**USTR Promotes Bilateral and Regional Trade Deepening at AGOA Forum**

On August 4 through August 6, 2019, USTR led the U.S. delegation to the annual AGOA Forum, which was hosted this year in Abidjan, Côte d'Ivoire. The theme of the 2019 forum, "AGOA and the Future: Developing a New Trade Paradigm to Guide U.S.-Africa Trade and Investment," highlighted the importance of establishing new trade and investment initiatives in advance of the AGOA program's expiration in 2025. The meeting included participants such as senior U.S. Government officials, representatives from Congress, and private sector and civil society representatives. African participants

included trade and commerce ministers from the 39 AGOA-eligible countries, heads of prominent African regional economic organizations, and private sector and civil society representatives.

During the Forum, U.S. officials discussed the benefits of its model free trade agreement (FTA) initiative, pointing to the advantages that such a reciprocal agreement could provide compared to the current unilateral trade preference program. An FTA with the United States would signal a commitment to high standards of transparency and due process that is critical to attracting business investment. The long-term objective of the model FTA initiative is to have a network of agreements in place that could serve as building blocks to an eventual continental trade partnership between Africa and the United States.

USTR hailed the African Continental Free Trade Area (AfCFTA), which launched in May 2019, as a "remarkable achievement." At the Forum, USTR and the African Union (AU) Trade Commissioner signed a Joint Statement memorializing U.S. technical support for and partnership with the AU for the ongoing negotiation and implementation of the AfCFTA. The 2020 AGOA Forum will be held later this year in Washington, D.C.

**Meetings with African Trade Ministers**

On the margins of the August 2019 AGOA Forum, USTR met with the AU Trade Commissioner as well as the trade ministers or senior officials of Cote d'Ivoire, Guinea, Kenya, Rwanda, South Africa, Tanzania, Uganda, and the East African Community Secretariat to discuss matters of mutual interest. In December 2019, U.S. Trade Representative Robert Lighthizer met with South Africa's Minister of Trade and Industry.

**United States Announces Intent to Initiate Trade Negotiations with Kenya**

On February 6, 2020, President Trump announced the United States intends to initiate trade agreement negotiations with Kenya following a meeting at the White House with Kenyan President Uhuru Kenyatta. The announcement came while the U.S.-Kenya Trade and Investment Working Group held its third meeting in Washington on February 3 through February 7, 2020. The Working Group, established by President Trump and President Kenyatta in August 2018, is exploring ways to deepen the trade and investment ties between the two countries and lay the groundwork for a stronger future trade relationship. The inaugural meeting of the Working Group, hosted by USTR, was held on April 2 through April 8, 2019 in Washington, D.C., and included the Kenyan Trade Minister and senior government officials. Among the topics discussed were pursuing exploratory talks on a future bilateral trade and investment framework, maximizing the remaining years of AGOA, strengthening commercial cooperation, and developing short-term solutions to reduce barriers to trade and investment.

From October 31 through November 4, 2019, Kenya hosted the second meeting of the Working Group in Nairobi, Kenya. The Working Group's discussions covered a range of trade and investment topics, including services, digital trade, intellectual property (IP), agriculture, environment, customs and trade facilitation, technical barriers to trade, labor, and state-owned enterprises. The delegations also discussed expanding bilateral trade and investment under AGOA and strengthening commercial cooperation, including in the small and medium-sized enterprises (SME) sector.

**United States-Rwanda Trade and Investment Framework Agreement**

On October 29, 2019, senior officials from the United States and Rwanda held the fifth meeting of the United States-Rwanda Trade and Investment Framework Agreement (TIFA) in Kigali, Rwanda. During the TIFA Council Meeting, the United States and Rwanda agreed to renew bilateral engagement that will increase economic growth and commercial relations between the two countries.

**U.S.-Africa Business Summit and Launch of Prosper Africa**

At the Corporate Council on Africa's biennial U.S.-African Business Summit in Maputo, Mozambique in June 2019, the Trump Administration launched "Prosper Africa," a signature U.S. Government initiative dedicated to substantially increasing two-way U.S.-Africa trade and investment. Prosper Africa streamlines the U.S. Government tools that facilitate private sector activity and foster transparent and conducive business-enabling environments in Africa. More than 2,000 senior business and government leaders participated in the Summit. USTR and other U.S. Government officials took part in the opening session, which also included five different African heads of state. The Summit also featured a final investment decision for the largest single investment in African history, a $20 billion natural gas development project in northern Mozambique led by a U.S. energy company.

**United States-Nigeria Commercial and Investment Dialogue**

On February 4, 2020 the Deputy Secretary of Commerce, and the Minister of Industry, Trade and Investment cohosted the inaugural United States-Nigeria Commercial and Investment Dialogue (CID). The CID was a recommendation from the President's Advisory Council on Doing Business in Africa (PAC-DBIA). During this inaugural event, both the Nigerian and U.S. private sector leads presented initial findings in the five focus areas which included digital economy, agriculture, investment, infrastructure and regulatory reform. The goals of the CID support the President's National Security Strategy for Africa by expanding and deepening the trade and commercial ties with Nigeria.

**Trade and Investment Hubs**

The U.S. Agency for International Development maintains three Trade and Investment Hubs in sub-Saharan Africa that provide extensive support to 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, which is expected to reopen in 2020 under a new contract. The Hubs work to boost trade and investment between and within each region, as well as to promote two-way trade with the United States under AGOA.

**The Better Utilization of Investments Leading to Development (BUILD) Act**

President Trump signed the Better Utilization of Investments Leading to Development (BUILD) Act into law on October 5, 2018. This legislation strengthens U.S. development finance capabilities by creating a new U.S. International Development Finance Corporation (DFC), which has assumed the functions of the Overseas Private Investment Corporation (OPIC), and certain development finance functions of USAID, while expanding current flexibility and resources. One key expected benefit of the new DFC will be to enhance trade and investment between the United States and Africa. For further information, see the Development Finance Corporation website.

## 7. South and Central Asia

U.S. engagement with countries across South and Central Asia in 2019 focused on advancing resolution of a range of issues related to market access, protection of intellectual property, and respect for internationally-recognized worker rights. In addition, issues related to digital trade assumed increasing prominence in 2019, and are expected to remain an important focus of U.S. trade policy engagement in the region.

The United States currently has bilateral Trade and Investment Framework Agreements (TIFAs) with Afghanistan, Bangladesh, Iraq, Maldives, Nepal, Pakistan, Sri Lanka and, collectively, with the Central

Asian republics of Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan. A Trade Policy Forum exists to facilitate trade and investment dialogue between the United States and India.

U.S. trade policy engagement in South and Central Asia is informed by the objectives of the President's Indo-Pacific Strategy, and seeks to foster regional trade and security through dialogue on and adherence to trade rules. The region encompasses approximately 1.9 billion people, and many countries are experiencing rapid economic growth and progression up the development ladder, presenting important opportunities for U.S. exporters of goods, services, and agricultural products.

## Recent Developments in United States-India Trade Relations

During 2019, the United States engaged extensively with India to try to resolve longstanding market access impediments affecting U.S. exporters. While India's large market, economic growth, and progress towards development make it an essential market for many U.S. exporters, a general and consistent trend of trade-restrictive policies have inhibited the potential of the bilateral trade relationship. Recent Indian emphasis on import substitution through a "Make in India" campaign has epitomized the challenges facing the bilateral trade relationship.

In April 2018, USTR self-initiated a review of India's eligibility to receive Generalized System of Preferences (GSP) program benefits based on concerns related to India's compliance with the GSP market access criterion and accepted two petitions related to the same criterion. USTR held extensive bilateral negotiations in late 2018 and early 2019 aimed at resolving certain longstanding market access barriers, but these produced unsatisfactory results. As a result, on May 31, 2019, the President issued a proclamation terminating India's GSP eligibility effective June 5, 2019.

Subsequent to the suspension of India's GSP benefits, the United States and India resumed intensive work in the fall of 2019 aimed at producing a package of meaningful market access outcomes. U.S. objectives in this negotiation included resolution of various non-tariff barriers, targeted reduction of certain India tariffs, and other market access improvements.

In addition to this engagement, USTR engaged with India on an ongoing basis throughout 2019 in response to specific concerns affecting the full range of pressing bilateral trade issues, including intellectual property (IP) protection and enforcement, policy development affecting electronic commerce and digital trade, and market access for agriculture, non-agriculture goods, and services.

## Trade and Investment Framework Agreement Activity in South and Central Asia

The United States engaged in formal TIFA Council meetings during 2019 with Iraq, Maldives, Sri Lanka, and the Central Asian republics. In addition, substantive intersessional TIFA work was conducted with Bangladesh and Pakistan to sustain trade policy engagement and to prepare for future TIFA Council meetings. The activities below describe the key outcomes that advance the U.S. trade and investment agenda with these countries.

*Bangladesh*: The United States terminated Bangladesh's GSP eligibility in 2013 following reviews of Bangladesh's worker safety and worker rights deficiencies. USTR has continued to engage Bangladesh on these concerns including during an April 2019 intersessional meeting of the United States-Bangladesh Trade and Investment Cooperation and Facilitation Agreement (TICFA) held in Dhaka, and the United States-Bangladesh Partnership Dialogue in June 2019. Despite sustained efforts in this area, there has not been significant progress in the areas of freedom of association and worker rights laws. While private

sector entities have made some progress in the area of worker safety in the past, those efforts now face resistance from Bangladeshi authorities.

In addition to the continued engagement on labor issues, USTR has engaged Bangladesh on a full range of pressing bilateral trade issues, including IP protection and enforcement, policy development affecting electronic commerce and digital trade, and market access for agriculture, non-agriculture goods, and services.

*Pakistan*: USTR engaged with Pakistan bilaterally at an intersessional meeting of the United States-Pakistan TIFA Council in May 2019. Pakistan also participated as an observer to the United States-Central Asia TIFA Council meeting in October 2019. USTR's bilateral engagement with Pakistan has focused in particular on IP protection and enforcement, labor, agricultural and non-agricultural market access for goods and services, technical barriers to trade, and policy developments affecting digital trade and electronic commerce.

*Central Asia*: USTR hosted the United States–Central Asia TIFA Council meeting in Washington, D.C. in October 2019. Along with the five Central Asian countries (Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan), two observer countries –Afghanistan and Pakistan – also participated. Five working groups operate under the auspices of the TIFA, covering customs, standards, sanitary and phytosanitary issues, IP protection and enforcement, and women's economic empowerment. Implementation of the WTO's Trade Facilitation Agreement has been a prominent subject within the work of this regional TIFA.

*Sri Lanka*: Through the bilateral engagement with Sri Lanka in June 2019, USTR engaged on trade issues related to IP protection and enforcement, labor, agricultural and non- agricultural market access for goods and services, technical barriers to trade, and policy developments affecting digital trade and electronic commerce.

*Maldives*: After a five year hiatus, USTR participated in the second United States-Maldives TIFA Council meeting in June 2019. The discussion focused on IP protection and enforcement, labor, technical barriers to trade, business climate concerns, trade and environment, and arbitration of investment disputes.

*Iraq*: USTR convened the second meeting of the United States- Iraq, TIFA Council in June 2019. The discussion focused on technical barriers to trade, business climate concerns, arbitration of investment disputes, market access for agricultural and non-agricultural goods and services, and specific concerns with Iraq's tariffs.

# II. TRADE ENFORCEMENT ACTIVITIES

## A. Overview

The Office of the United States Trade Representative 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.

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, as well as 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 36 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 additional duties on certain products; 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 additional duties on certain products; 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 offensive cases to conclusion, prevailing in 46 cases as of December 2019. In 2019, the United States won the largest arbitration award in WTO history – nearly twice the largest previous award – in its challenge to the continued breach of WTO rules by the European Union and four member States (France, Germany, Spain, and the United Kingdom) through subsidies to Airbus for large civil aircraft. The United States also prevailed in WTO compliance panel proceedings rejecting the European Union's claim that it had terminated the subsidies and complied with WTO rules.

In 2019, the United States won two significant disputes initiated against China. The United States prevailed in a challenge to China's failure to comply with WTO rules by providing agricultural domestic support in excess of its WTO commitments every year between 2012 and 2015. The United States also prevailed in a challenge to China's administration of its tariff-rate quotas for wheat, corn, and rice inconsistently with its WTO commitments. The United States demonstrated that China's tariff-rate quota administration is not transparent, predictable, or fair, and it ultimately inhibits tariff-rate quotas from filling, denying U.S. farmers access to China's market for grain.

In 2019, the United States also prevailed in its WTO challenge to Indian export subsidies (on appeal by India). A WTO panel agreed with the United States that India, contrary to WTO rules, provides prohibited export subsidies to Indian exporters worth over $7 billion annually.

In prior years, the United States prevailed in complaints against foreign trade barriers 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; Indonesia's barriers on the importation of horticultural products, beef, poultry, and animals (three complaints); 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 (*for further details on the application of these trade law tools see Chapters II.B, II.E.4., and II.E.5*).

**ICTIME**

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 was signed into law. Section 604 of the law established the Interagency Center for Trade Implementation, Monitoring and Enforcement (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 of trade agreements. The statute provided funding to USTR to staff ICTIME directly. ICTIME brings together research, analytical resources, and expertise from within USTR and across the federal government into one office within USTR to significantly enhance USTR's capability to investigate foreign trade practices that are potentially unfair or adverse to U.S. commercial interests.

In 2019, ICTIME analysts supported the development and production of a report updating a wide-ranging Section 301 investigation of China's policies and actions regarding intellectual property and technology transfer. On WTO matters, ICTIME provided research and analysis in support of multiple USTR enforcement actions, including a case involving China's unfair technology practices, India's prohibited export subsidies, and additional import duties imposed on U.S. products by a number of trading partners (Canada, China, the European Union, Mexico, Russia, and Turkey) as well as related cases on U.S. duties brought by a number of trading partners (the EU, India, Norway, Russia, Switzerland, and Turkey). In addition, ICTIME continued to provide research and analysis in support of USTR's successful WTO enforcement actions involving China's tariff rate quota administration and domestic support for corn, wheat, and rice.

In the WTO committee context, ICTIME provided research, analysis, and report writing in support of the U.S. Government's counter-notifications within the Committee on Agriculture regarding India's aggregate measurements of support for cotton and pulses. ICTIME also provided research to USTR functional and regional offices on a variety of issues. As in previous years, ICTIME has acquired translations of, and directly translated, a large number of foreign laws, regulations, and other measures related to trading partners' adherence to international trade obligations, including compliance in disputes brought by the United States.

# B. Section 301

Section 301 of the Trade Act of 1974 (Trade Act) is designed to address foreign unfair practices affecting U.S. commerce. 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 U.S. Trade Representative to investigate a foreign government act, policy, or practice that may be burdening or restricting U.S. commerce and take appropriate action. The Trade Representative also may self-initiate an investigation.

In each investigation, the Trade Representative 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, the Trade Representative must take action. If they are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the Trade Representative must determine whether action is appropriate and, if so, what action to take.

Actions that the Trade Representative 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 the Trade Representative considers that the country fails to implement a World Trade Organization (WTO) dispute panel recommendation, the Trade Representative must determine what further action to take under Section 301.

## Developments during 2019

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

Pursuant to the President's direction, the Trade Representative initiated in August 2017 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 the People's Republic of China related to technology transfer, intellectual property, and innovation are unreasonable or discriminatory and burden or restrict U.S. commerce.[3] The findings of the investigation, along with advice from the Section 301 Committee and advisory committees, supported a determination that China's acts, policies, and practices are actionable under Section 301(b) of the Trade Act (19 U.S.C. 2411(b)). The findings of the investigation are reflected in an extensive 200-page report, which USTR published on March 22, 2018. Based on this report, the Trade Representative in April 2018 published a notice of a determination that the following acts, policies, and practices of China are

[3] 82 FR 39007 (August 14, 2017).

unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under Section 301(b) of the Trade Act:

- China uses foreign ownership restrictions, such as joint venture requirements and foreign equity limitations, and various administrative review and licensing processes, to require or pressure technology transfer from U.S. companies.

- China's regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on non-market-based terms that favor Chinese recipients.

- China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies.

- China conducts and supports unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access their sensitive commercial information and trade secrets.[4]

With respect to the second category of acts, policies, and practices (involving technology licensing regulations), the Trade Representative decided that relevant U.S. concerns could be appropriately addressed through recourse to WTO dispute settlement. Accordingly, on March 23, 2018, USTR initiated a WTO dispute by requesting consultations with the government of China regarding certain specific aspects of China's technology regulations.[5] Following the consultations and the subsequent establishment of a panel, the proceedings have been suspended since June 2019, at the request of the United States. Further developments in this WTO dispute are summarized in the WTO Disputes section of this report.

Lists 1 and 2

With respect to the other categories of acts, policies, and practices, the Trade Representative, at the direction of the President, determined to impose an additional duty on certain products of China. The additional duties were imposed in two tranches, following public comment and hearings. In July 2018, an additional 25 percent duty was imposed on the first tranche, known as List 1, which covered 818 tariff subheadings with an approximate annual trade value of $34 billion.[6] Subsequently in August 2018, an additional 25 percent duty was imposed on List 2, which covered 279 tariff subheadings with an approximate annual trade value of $16 billion.[7]

The Trade Representative also established processes by which stakeholders may request that particular products classified within a covered tariff subheading be excluded from the additional duties.[8] USTR received and reviewed approximately 11,000 and 2,900 exclusion requests pertaining to Lists 1 and 2, respectively, approving approximately 3,700 and 1,100 of them.

With respect to the first set of approved exclusions under List 1, which was set to expire on December 28, 2019, USTR established a process for submitting public comment regarding whether an exclusion should

[4] 83 FR 14906 (April 6, 2018).
[5] *China—Certain Measures Concerning the Protection of Intellectual Property Rights* (DS542).
[6] 83 FR 28710 (June 20, 2018).
[7] 83 FR 40823 (August 16, 2018).
[8] 83 FR 32181 (July 11, 2018) and 83 FR 47236 (September 18, 2018).

be extended. USTR received approximately 260 comments covering 17 exclusions and, upon review, determined to extend six of the exclusions for 12 months.[9] With respect to the second set of approved exclusions under List 1, which is set to expire on March 25, 2020, USTR established the same public comment process on whether to extend particular exclusions. USTR plans to issue its determinations in March 2020.

List 3

In September 2018, the Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional duties on products of China classified under 5,733 tariff subheadings with an approximate annual trade value of $200 billion.[10] The rate of the additional duty on these List 3 products was initially 10 percent *ad valorem* and was later increased to 25 percent *ad valorem* in May 2019, following public comment and hearing.[11]

USTR also established an exclusion process for products of China covered under List 3.[12] USTR received approximately 30,300 exclusion requests under List 3. As of February 14, 2020, USTR had approved approximately 730 requests, and will continue to issue decisions on pending requests on a periodic basis.

List 4

In August 2019, the Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional 10 percent *ad valorem* duties on products of China classified under approximately 3,805 tariff subheadings with an approximate annual trade value of $300 billion.[13] The tariff subheadings subject to the 10 percent additional duties were separated into two lists with different effective dates: September 1, 2019 for the list in Annex A ("List 4A") and December 15, 2019 for the list in Annex C ("List 4B"). Subsequently, at the direction of the President, the Trade Representative determined to increase the rate of the additional duties from 10 percent to 15 percent.[14]

On December 18, 2019, following a December 13 announcement of the Phase One trade deal between the United States and China, and at the direction of the President, the Trade Representative determined to suspend indefinitely the imposition of the 15 percent additional duties on products of China covered by List 4B, which otherwise would have been effective on December 15, 2019.[15] The Phase One deal requires structural reforms and other changes to China's economic and trade regime, including with respect to certain issues covered in the Section 301 investigation. Also in light of the Phase One deal, and at the direction of the President, the Trade Representative determined to reduce the rate of additional duties on products of China covered by List 4A, from 15 percent to 7.5 percent, effective February 14, 2020.[16]

USTR also established an exclusion process for products of China covered under List 4A.[17] The deadline for submitting requests under this process was January 31, 2020. USTR received approximately 8,800 requests and will issue decisions on pending exclusion requests on a periodic basis.

[9] 84 FR 70616 (December 23, 2019).
[10] 83 FR 47974 (September 21, 2018); 83 FR 49153 (September 28, 2018).
[11] 84 FR 20459 (May 9, 2019).
[12] 84 FR 29576 (June 24, 2019).
[13] 84 FR 43304 (August 20, 2019).
[14] 84 FR 45821 (August 30, 2019).
[15] 84 FR 69447 (December 18, 2019).
[16] 85 FR 3741 (January 22, 2020).
[17] 84 FR 57144 (October 24, 2019).

## 2. 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 obligation, because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the European Communities (EC), 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 General Agreement on Tariffs and Trade (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 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 memorandum of understanding (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.

On December 9, 2016, representatives of the U.S. beef industry requested that USTR reinstate trade action against the EU because the TRQ was 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.

In 2019, the United States and the European Union concluded successful negotiations to resolve concerns with the operation of the TRQ established by the MOU. On August 2, 2019 the EU and United States signed the *Agreement on the Allocation to the United States of a Share in the Tariff Rate Quota for High Quality Beef Referred to in the Revised MOU Regarding the Importation of Beef from Animals Not Treated with Certain Growth-promoting Hormones and Increased Duties Applied by the United States to Certain Products of the European Union.* The agreement establishes a duty-free TRQ exclusively for the United States. Under the agreement, American ranchers will have an initial TRQ of 18,500 metric tons annually, valued at approximately $220 million. Over seven years, the TRQ will grow to 35,000 metric tons annually, valued at approximately $420 million. On December 13, 2019, USTR published in the Federal Register notice of its determination not to reinstate action in connection with the European Union's measures. The proceeding was terminated effective January 1, 2020, the date the EU applied the U.S.-specific TRQ allocation.

## 3. France – Digital Services Tax

On March 6, 2019, the Government of France released a proposal for a 3 percent levy on revenues that certain companies generate from providing certain digital services to, or aimed at, persons in France (the Digital Services Tax, or the DST). The two houses of the French parliament passed DST bills on April 9 and May 21, 2019, and agreed on a final bill on July 4. President Emmanuel Macron signed the bill into law on July 24.

On July 10, 2019, USTR initiated an investigation of the French DST pursuant to section 302(b)(1)(A) of the Trade Act. The notice of initiation (84 FR 34042) solicited written comments on several aspects of the DST. USTR and the Section 301 Committee convened a public hearing on August 19, 2019, during which witnesses provided testimony and responded to questions. Under Section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the Government of France regarding the issues involved in the investigation. Consultations were held on November 14, 2019.

Based on information obtained during the investigation, USTR and the Section 301 Committee prepared a report setting out factual findings of the investigation. Based on the information obtained during the investigation and the advice of the Section 301 Committee, and as reflected in the report, the U.S. Trade Representative determined under sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)) that the act, policy, or practice covered in the investigation, namely the French DST, is unreasonable or discriminatory and burdens or restricts U.S. commerce, and is thus actionable under section 301(b) of the Trade Act. In particular:

- The French DST is intended to, and by its structure and operation does, discriminate against U.S. digital companies, including due to the selection of services covered and the revenue thresholds.

- The French DST's retroactive application is unusual and inconsistent with prevailing tax principles and renders the tax particularly burdensome for covered U.S. companies.

- The French DST's application to revenue rather than income contravenes prevailing tax principles and is particularly burdensome for covered U.S. companies.

- The French DST's application to revenues unconnected to a physical presence in France contravenes prevailing international tax principles and is particularly burdensome for covered U.S. companies.

- The French DST's application to a small group of digital companies contravenes international tax principles counseling against targeting the digital economy for special, unfavorable tax treatment.

On December 6, USTR issued a *Federal Register* notice explaining the determination and soliciting public comments on a proposed trade action consisting of additional duties of up to 100 percent on certain French products. The notice also seeks comment on the option of imposing fees or restrictions on French services. USTR and the Section 301 Committee convened a public hearing on January 7 to January 8, 2020, for witnesses to provide testimony and respond. In addition, the Trump Administration remains engaged in the OECD process to reach a consensus on new international tax rules and remains supportive of efforts to reach a multilateral solution.

*Enforcement of U.S. WTO Rights in Large Civil Aircraft Dispute*

On October 6, 2004, the United States requested WTO dispute settlement consultations with the European Communities (now the EU), France, Germany, Spain, and the United Kingdom (certain member States) concerning certain subsidies granted by the EU and certain member States to the EU large civil aircraft domestic industry, on the basis that the subsidies appeared to be inconsistent with their obligations under the GATT 1994 and the Agreement on Subsidies and Countervailing Measures (SCM Agreement).

In May 2011, a WTO panel report, as amended by an Appellate Body report, confirmed that EU and certain member State subsidies on the manufacture of large civil aircraft breached the EU's obligations under the SCM Agreement. The DSB adopted the reports on June 1, 2011, and recommended that the EU and certain member States bring the WTO-inconsistent measures into compliance with WTO rules. The EU and certain member States had until December 1, 2011, to bring the measures into compliance. On December 1, 2011, the EU asserted that it had implemented the DSB recommendations. The United States did not agree, and requested authorization from the DSB to impose countermeasures commensurate with the adverse effects of the WTO-inconsistent measures. The EU referred the matter to arbitration to assess the proper level of any countermeasures.

In early 2012, the United States and the EU entered into a procedural agreement pursuant to which the arbitration would be suspended until after WTO compliance panel and any appellate proceedings determined whether the EU had implemented the DSB recommendations. On May 28, 2018, the DSB adopted compliance panel and Appellate Body reports confirming that launch aid to the Airbus A380 and A350 XWB aircraft continued to cause WTO-inconsistent adverse effects to U.S. interests.

At the request of the United States, and in accordance with the procedural agreement, on July 13, 2018, the WTO Arbitrator resumed its work in determining the level of countermeasures to be authorized as a result of the WTO inconsistencies.

On May 28, 2019, USTR announced the initiation of a Section 301 investigation to enforce U.S. rights in the dispute. The notice of initiation (84 FR 15028) solicited written comments on several aspects of the

investigation, as well as comments on a list of products with a value of $21 billion being considered for additional duties of up to 100 percent. Public hearings were held on May 15 to May 16.

USTR issued a second notice on August 12, 2019, that requested public comments on a supplementary list of products with a value of $4 billion for which additional duties of up to 100 percent were also being considered. A second hearing was held on August 5, 2019.

On October 2, 2019, the WTO Arbitrator issued a report that concluded that the appropriate level of countermeasures in response to the WTO-inconsistent launch-aid provided by the EU or certain member States to their large civil aircraft domestic industry is approximately $7.5 billion annually.

On October 9, 2019, the Trade Representative announced in the *Federal Register* (84 FR 54245) a determination that, based on the original panel and appellate reports, the compliance panel and appellate reports, the report of the WTO Arbitrator, and information obtained during the investigation, including public comments and the advice of the Section 301 Committee, United States rights under the GATT 1994 and Articles 5 and 6.3 of the SCM Agreement were being denied, that the subsidies provided by the EU and certain member States were inconsistent with these agreements, and that the EU and certain members states had not satisfactorily implemented the recommendation of the WTO DSB. The October 9 notice also announced a list of the products with an annual trade value of approximately $7.5 billion that would be subject to additional duties of 10 or 25 percent, effective October 18, 2019.

On December 12, 2019, USTR published a notice in the *Federal Register* (84 FR 67992) seeking comments on a review of the October 18 action, specifically whether products subject to additional duties should be removed or remain on the final list, whether the rate of additional duty on specific products should be increased up to a level of 100 percent, and whether additional duties should be imposed on products which had been subject to public comment but were not subject to the October 18 action and the rate of additional duty to be applied to such products.

# C. 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 U.S. International Trade Commission (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.

The USITC did not institute any investigations under Section 201 based on new petitions in 2019. Section 204 of the Trade Act of 1974 requires the USITC to monitor developments with respect to the domestic industry following the President's determination to impose a safeguard measure. When the duration of a

safeguard measure is longer than three years, the USITC must submit a report to the President and Congress on the results of its monitoring no later than the midterm of the measure. During 2019, the USITC announced midterm reviews for the safeguard measure on solar products and on large residential washers. The USITC released its report regarding the latter on August 7, 2019.

# D. WTO Dispute Settlement

In 2019, the United States launched one WTO dispute and pursued actions in 10 other proceedings. In October 2019, a WTO arbitrator issued its award finding the United States may apply $7.5 billion in annual countermeasures in response to the European Union's (EU) WTO-inconsistent subsidies to Airbus for large civil aircraft. The United States also prevailed in WTO compliance panel proceedings rejecting the EU's claim that it had terminated the subsidies and complied with WTO rules.

In October 2019, the United States prevailed in a dispute relating to prohibited export subsidies provided by India for a variety of products. The panel agreed with the United States that India gives prohibited subsidies to producers of steel products, pharmaceuticals, chemicals, information technology products, textiles, and apparel, inconsistent with its WTO obligations.

In April 2019, the United States prevailed in an agriculture dispute challenging China's administration of tariff-rate quotas (TRQs) for rice, wheat and corn. The panel agreed with the United States that China's administration was not transparent, predictable, or fair, and that it inhibited the filling of the TRQs. In February 2019, the United States prevailed in another agriculture dispute against China for the excessive levels of domestic support provided to Chinese producers of grains. The panel found that China breached its WTO obligations because it provided more than the permitted level of domestic support every year between 2012 and 2015.

In July 2019, USTR requested WTO consultations with India on additional duties it is imposing on U.S. products in retaliation for U.S. duties on steel and aluminum products pursuant to Section 232 of the Trade Expansion Act of 1962. In October, the WTO established a panel to examine the U.S. complaint. In addition, the United States proceeded with panel proceedings against China, the EU, Russia, and Turkey challenging their additional duties imposed on U.S. products in retaliation for U.S. duties on steel and aluminum products pursuant to Section 232.

Information on WTO disputes to which the United States is a party and U.S. submissions in WTO disputes are available on the USTR website.

**Disputes Brought by the United States**

In 2019, 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 2019 where the United States was a complainant (listed alphabetically by responding party, and then chronologically).

*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.

In conjunction with licensing requirements, Argentina 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 EU 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.

Following Argentina's appeal in September 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 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.

*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 United States and Canada held consultations 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 on October 25, 2017.

The BC wine 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.

At the U.S. request, the WTO established a panel to examine the U.S. complaints on July 20, 2018. On November 30, 2018, the United States and Canada signed a side letter as part of the United States-Mexico-Canada Agreement in which Canada committed that by November 1, 2019, BC would modify the measures identified in the U.S. panel request so as to ensure that treatment of U.S. goods is consistent with WTO obligations. The United States agreed to pause the WTO dispute through that same date. The Government of British Columbia made regulatory changes in July 2019 to permit the sale of imported wine on grocery store shelves alongside BC wine. The United States is reviewing those changes.

*Canada – Additional Duties on Certain Products from the United States (DS557)*

On July 16, 2018, the United States requested consultations with Canada with respect to its imposition of additional duties on certain products originating in the United States. Canada imposed the additional duties in retaliation for the action the President took under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The U.S. consultations request alleges that the additional duties contravene Canada's obligations under the WTO Agreement because they (1) fail to extend to U.S. products an advantage, favor, privilege or immunity granted by Canada to products originating in the territory of other WTO Members; (2) accord less favorable treatment to products originating in the United States; and (3) impose duties in excess of those set forth in Canada's schedule.

The United States held consultations with Canada on October 3, 2018, but these consultations did not resolve the dispute. At the U.S. request, the WTO established a panel to examine the matter on November 21, 2018. On January 25, 2019, the Director General composed the panel as follows: Mr. William Ehlers, Chair; and Mr. Darlington Mwape and Ms. Claudia Uribe, Members.

On May 27, 2019, the United States and Canada jointly wrote to the panel advising it that they had reached a mutually agreed solution, terminating the dispute. The report of the panel was circulated to WTO Members and made public on July 11, 2019. In the report, the panel took note of the mutually agreed solution between the United States and Canada.

*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 and June 6, 2007 and July 31, 2007. At the U.S. request, the WTO established a panel on November 27, 2007, to examine the U.S. complaint. 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, and the United States filed an 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 United States.

*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 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: (1) China may not seek to justify its imposition of export duties as environmental or conservation measures; (2) China failed to demonstrate that certain of its export quotas were justified as measures for preventing or relieving a critical shortage; and (3) 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 an 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. At the U.S. request, on March 25, 2011, the WTO established a panel to examine the U.S. complaint. 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 circulated its report 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 China Union Pay (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 and April 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 through February 28, 2013, and June 18 and June 19, 2013.

On March 26, 2014, the panel circulated 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 27, 2009, China's Ministry of Commerce (MOFCOM) initiated anti-dumping and countervailing duty investigations of imports of chicken broiler products from the United States. On September 26, 2010 and August 30, 2010, China imposed anti-dumping 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. On September 20, 2011, the United States filed a request for consultations challenging China's anti-dumping and countervailing duties.

The United States and China held consultations on October 28, 2011, but were unable to resolve the dispute. At the request of the United States, the WTO established a panel on January 20, 2012, to examine the U.S. complaint. 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 and September 28, 2012, and December 4 and December 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;

- 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;

- 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. At the U.S. request, the WTO established a compliance panel on July 18, 2016, to examine the U.S. complaint. The panel circulated its report on January 18, 2018. The Panel found that China continued to breach its WTO obligations by:

- Continuing to levy countervailing duties on U.S. producers in excess of the amount of subsidization;

- Continuing to rely on flawed price comparisons for its determination that China's domestic industry had suffered injury;

- Continuing to not properly allocate costs in calculating U.S. producers' cost of production while declining to use the books and records of two major U.S. producers in calculating costs of production;

- Improperly resorting to facts available for a U.S. respondent that had submitted appropriate and verifiable data.

With respect to the procedural failings, the Panel found that China continued to breach its WTO obligations by:

- Failing to provide U.S. respondents with notice of information that MOFCOM required from China's domestic industry;

- Failing to provide U.S. respondents with timely opportunities to see requests for information made by MOFCOM.

The DSB adopted the compliance panel report on February 28, 2018. China agreed to remove the anti-dumping and countervailing duties that were subject to the dispute.

*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 automotive 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, 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 and April 2, 2015. At the U.S. request, the WTO on April 22, 2015, established a panel to examine the U.S. 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)*

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 and September 9, 2016. Consultations did not resolve the dispute.

At the U.S. request, the WTO established a panel on November 8, 2016. In light of Chinese actions to cease to apply the export duties and quotas in 2017, the United States is continuing to monitor China's actions.

*China – Domestic Supports for Agricultural Producers (DS511)*

On September 13, 2016, the United States requested consultations with China concerning China's provision of 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 the U.S. request, the WTO established a panel on January 25, 2017, to examine the U.S. complaint. Australia, Brazil, Canada, Colombia, Ecuador, Egypt, El Salvador, the EU, Guatemala, India, Indonesia, Israel, Japan, Kazakhstan, Korea, Norway, Pakistan, Paraguay, Philippines, Russia, Saudi Arabia, Singapore, Chinese Taipei, Thailand, Turkey, Ukraine, and Vietnam reserved their rights to participate in panel proceedings as third parties. On June 24, 2017, the parties agreed to compose the Panel as follows: Mr. Gudmundur Helgason, Chair; and Mr. Juan Antonio Dorantes Sánchez and Ms. Elaine Feldman, Members.

On February 28, 2019, the Panel circulated its report. The Panel found that China had breached Articles 3.2 and 6.3 of the Agriculture Agreement by exceeding, in each year from 2012 to 2015, its *de minimis* level of support for wheat, Indica rice, and Japonica rice. The DSB adopted the Panel report on April 26, 2019. The United States and China agreed that the reasonable period of time for China to come into compliance with WTO rules ends March 31, 2020.

*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.

On February 9, 2017, the United States and China held consultations in Geneva. The EU, Canada, Australia, and Thailand requested to join the consultations, but China denied the third parties' requests.

The consultations failed to resolve the U.S. concerns, and at the U.S. request, the WTO established a panel on September 22, 2017. Australia, Brazil, Canada, Ecuador, the EU, Guatemala, India, Indonesia, Japan, Kazakhstan, Korea, Norway, Russia, Singapore, Chinese Taipei, Ukraine and Vietnam reserved third party rights. The Panel was composed on February 22, 2018, as follows: Mr. Mateo Diego-Fernandez, Chair; and Mr. Stefan H. Johannesson and Mr. Esteban B. Conejos, Jr., Members.

The Panel circulated its report on April 18, 2019. The Panel found that with respect to the United States' claims under Paragraph 116 of China's Working Party Report:

- The basic eligibility criteria used in China's administration of its TRQs for wheat, rice, and corn are inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, and to administer TRQs using clearly specified requirements;

- The allocation principles used in China's administration of its wheat, rice, and corn TRQs are inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, and to administer TRQs using clearly specified administrative procedures;

- The reallocation procedures used in China's administration of its wheat, rice, and corn TRQs are inconsistent with the obligation to administer TRQs using clearly specified administrative procedures;

- The public comment process used in China's administration of its wheat, rice, and corn TRQs is inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, and to administer TRQs using clearly specified administrative procedures;

- The administration of STE and non-STE portions of China's wheat, rice, and corn TRQs is inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, to administer TRQs using clearly specified administrative procedures, and to administer TRQs in a manner that would not inhibit the filling of each TRQ;

- The usage requirements for imported wheat and corn used in China's administration of its TRQ for wheat and corn are inconsistent with the obligations to administer TRQs on a predictable basis, to administer TRQs using clearly specified administrative procedures, and to administer TRQs in a manner that would not inhibit the filling of each TRQ.

The Panel also found that China's administration of its wheat, rice, and corn TRQs is, as a whole, inconsistent with the obligations to administer TRQs on a transparent, predictable, and fair basis, to administer TRQs using clearly specified requirements and administrative procedures, and to administer TRQs in a manner that would not inhibit the filling of each TRQ.

The DSB adopted the panel report on May 28, 2019. The United States and China agreed that the reasonable period of time for China to come into compliance with WTO rules ends February 29, 2020.

*China – Certain Measures Concerning the Protection of Intellectual Property Rights (DS542)*

On March 23, 2018, the United States requested consultations with China concerning China's discriminatory technology licensing requirements. The U.S. consultations request details how China breaches WTO rules by denying foreign patent holders, including U.S. companies, basic patent rights to stop a Chinese entity from using the technology after a licensing contract ends. China also breaks WTO rules by imposing mandatory adverse contract terms that discriminate against and are less favorable for imported foreign technology. These Chinese policies hurt innovators in the United States and worldwide by interfering with the ability of foreign technology holders to set market-based terms in licensing and other technology-related contracts.

In July 2018, the United States consulted with China, with Japan and the EU joining the consultations, but the consultations did not resolve the dispute.

At the U.S. request, the WTO established a panel on November 21, 2018, to examine the U.S. complaint. On January 16, 2019, the Director-General composed the panel as follows: Mr. Mateo Diego Fernández, Chair; and Ms. Esmé Du Plessis and Mr. Maximiliano Santa Cruz, Members. The United States filed its first written submission on March 6, 2019. On March 18, 2019, China's State Council issued a Decision Revising Some Administrative Regulations, repealing certain of the technology licensing requirements cited in the U.S. complaint. On June 3, 2019, the United States requested that the panel suspend its work until December 31, 2019. On June 11, 2019, the panel granted the U.S. request. On December 23, 2019, the United States requested that the panel suspend the proceedings until February 29, 2020, in light of ongoing consultations between the United States and China, and the panel granted the further request.

*China – Additional Duties on Certain Products from the United States (DS558)*

On July 16, 2018, the United States requested consultations with China with respect to its imposition of additional duties on certain products originating in the United States. China imposed the additional duties in retaliation for the action the President took under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The U.S. consultations request alleges that the additional duties contravene China's obligations under the WTO Agreement because they: (1) fail to extend to U.S. products an advantage, favor, privilege or immunity granted by China to products originating in the territory of other WTO Members; (2) accord less favorable treatment to products originating in the United States; and (3) impose duties in excess of those set forth in China's schedule.

The United States held consultations with China on August 29, 2018, but these consultations did not resolve the dispute. At the U.S. request, the WTO established a panel on November 21, 2018, to examine the U.S. complaint. On January 25, 2019, the Director-General composed the panel as follows: Mr. William Ehlers, Chair; and Mr. Cristian Espinosa Cañizares and Ms. Mónica Rolong, Members. Panel proceedings are ongoing.

*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 United States reinstate suspension of concessions, as authorized by the DSB. USTR accordingly initiated proceedings under Section 306 of the Trade Act. In 2019, the United States and the EU concluded successful negotiations to resolve concerns with the operation of the TRQ established by the MOU. On August 2, 2019 the United States and the EU signed the *Agreement on the Allocation to the United States of a Share in the Tariff Rate Quota for High Quality Beef Referred to in the Revised MOU Regarding the Importation of Beef from Animals Not Treated with Certain Growth-promoting Hormones and Increased Duties Applied by the United States to Certain Products of the European Union.* On December 13, 2019, USTR published in the *Federal Register* notice of its determination not to reinstate action in connection with the EU's measures concerning meat and meat products.

*(For additional information on the U.S. suspension of concessions and the MOU, see the discussion of the associated Section301 investigation in section II.B 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 E, 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 objected 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, referring the matter to arbitration. The United States and the EU mutually agreed to suspend the Article 22.6 arbitration proceedings on February 18, 2008.

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 Communities 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 and March 21, 2007, and July 25 to July 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, Korea, Mexico, Singapore, and Chinese Taipei.

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 through November17, 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 through December14, 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, as well as 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 European Union 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.

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 was composed of Ricardo Ramirez-Hernandez as Presiding Member, and Peter van den Bossche and Ujal Singh Bhatia.

On May 15, 2018, the Appellate Body issued its report. The Appellate Body confirmed that the EU and certain Member States failed to comply with the earlier WTO determination finding launch aid inconsistent with their WTO obligations. The Appellate Body further confirmed that almost $5 billion in new launch aid for the A350 XWB was WTO-inconsistent. The Appellate Body found that the WTO-inconsistent subsidies continue to cause significant lost sales of Boeing aircraft in the twin-aisle and very large aircraft markets, and that these subsidies impede exports of Boeing 747 aircraft to numerous geographic markets. The Appellate Body also found that, due to the passage of time, the EU no longer needed to take action regarding some of the earlier (*i.e.*, pre-A380) launch aid subsidies previously found to be WTO-inconsistent.

On July 13, 2018, at the request of the United States, the arbitration regarding the level of countermeasures (suspended in January 2012) was resumed. On October 2, 2019, the arbitrator issued its decision that the level of countermeasures commensurate with the degree and nature of the adverse effects determined to exist is up to $7.50 billion annually.

On May 17, 2018, the EU represented to the DSB that it had taken new steps to achieve compliance with its WTO obligations. However, following consultations, the United States did not agree that the EU had achieved compliance. At the request of the EU, the WTO established a second compliance panel on August 27, 2018.

On December 2, 2019, the second compliance panel issued its report. The panel found that the EU continued to be in breach of Articles 5(c) and 6.3(a), (b), and (c) of the SCM agreement, and that the EU and certain Member States had accordingly 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." The panel agreed with the United States that none of the measures taken by the four EU Member States amounted to a withdrawal of the launch aid for the A350XWB and A380. The panel also found that that launch aid for the A380 and A350XWB continue to be a genuine and substantial cause of lost sales to U.S. aircraft, and impedance of exports of U.S. aircraft to China, India, Korea, Singapore, and the United Arab Emirates.

On December 6, 2019, the EU notified the DSB of its decision to appeal certain findings of the compliance Panel.

*(For additional information on the U.S. countermeasures, see the discussion of the associated Section 301 investigation in section II.B of this report*.)

*European Union – Additional Duties on Certain Products from the United States (DS559)*

On July 16, 2018, the United States requested consultations with the European Union (EU) with respect to its imposition of additional duties on certain products originating in the United States. The EU imposed the additional duties in retaliation for the action the President took under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The U.S. consultations request alleges that the additional duties contravene the EU's obligations under the WTO Agreement because they: (1) fail to extend to U.S. products an advantage, favor, privilege or immunity granted by the EU to products originating in the territory of other WTO Members; (2) accord less favorable treatment to products originating in the United States; and (3) impose duties in excess of those set forth in the EU's schedule.

The United States held consultations with the EU on August 28, 2018, but these consultations did not resolve the dispute. At the U.S. request, the WTO establish a panel on November 21, 2018, to examine the U.S. complaint. On January 25, 2019, the Director-General composed the panel as follows: Mr. William Ehlers, Chair; and Ms. Olga Lucía Lozano Ferro and Mr. Anwar Zaheer Jamali, Members. Panel proceedings are ongoing.

*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 and April 17, 2012, but were unable to resolve the dispute. At the U.S. request, the WTO established a panel to examine the U.S. complaint on June 25, 2012. On February 18, 2014, the WTO Director General composed the Panel as follows: Mr. Stuart Harbinson, Chair; and Ms. Delilah Cabb and Mr. Didrik Tønseth, Members. The panel held meetings with the Parties on July 24 and July 25, 2013 and December 16 to December 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 June 4, 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 arbitration proceedings are ongoing.

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 compliance panel proceeds are ongoing.

In 2018 and 2019, the United States and India on several occasions postponed both the release of the Arbitrator's decision on the level of suspension of concessions and the remaining steps in the compliance panel proceeding while the two sides discuss potential resolution of the dispute. In March 2018, the United States and India agreed to veterinary export certificates for the shipment to India of U.S. poultry and poultry products.

*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, Chair; and Mr. Pornchai Danvivathana and Mr. Marco Tulio Molina Tejeda, Members. The Panel held meetings with the Parties on February 3 and February 4, 2015, and April 28 and April 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, referring the matter to arbitration.

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 with the recommendations and rulings of the DSB are consistent with WTO rules. At its meeting on February 28, 2018, the DSB agreed to establish a compliance panel.

*India – Export Related Measures (DS541)*

On March 14, 2018, the United States requested consultations with India concerning certain Indian measures relating to export subsidy programs including: (1) the Export Oriented Units Scheme and sector specific schemes, including Electronics Hardware Technology Parks Scheme; (2) the Merchandise Exports from India Scheme; (3) the Export Promotion Capital Goods Scheme; (4) Special Economic Zones, and; (5) a duty-free imports for exporters program. The United States alleges that these programs are inconsistent with Articles 3.1(a) and 3.2 of the Agreement on Subsidies and Countervailing Measures

because they provide prohibited subsidies contingent upon export performance. Consultations were held on April 11, 2018, but failed to resolve the dispute.

On May 17, 2018, the United States requested the establishment of a panel to examine the complaint. On July 16, 2018, the United States requested the Director General to determine the composition of the panel, and on July 23, 2018, the Director General composed the panel as follows: Mr. Jose Antonio S. Buencamino, Chair; and Ms. Leora Blumberg and Mr. Serge Pannatier, Members.

On October 31, 2019, the Panel issued its report. The Panel found all of the challenged export subsidy programs inconsistent with Articles 3.1 (a) and 3.2 of the Agreement on Subsidies and Countervailing Measures. The Panel rejected India's two principal defenses of its programs. First, the Panel disagreed with India's argument that India continued to have an exemption, based on a certain developing country status designation, to provide subsidies contingent upon export performance. Second, the Panel rejected India's defense that the export subsidy programs qualified as "duty-drawback" schemes. With respect to certain product lines under the duty-free imports for exporters program, the panel found language for those lines limited the import duty exemption at issue to products used in the manufacture/processing of final products for export. Those product lines were exempted and were not deemed to be subsidies. However, the remaining product lines did not qualify for duty-drawback protection and were found to be subsidies.

On November 19, 2019, India notified the DSB of its decision to appeal the Panel's report.

*India – Additional Duties on Certain Products from the United States (DS585)*

On July 3, 2019, the United States requested consultations with India with respect to its imposition of additional duties on certain products originating in the United States. India imposed the additional duties in retaliation for the action the President took under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The U.S. consultations request alleges that the additional duties contravene India's obligations under the WTO Agreement because they: (1) fail to extend to U.S. products an advantage, favor, privilege or immunity granted by India to products originating in the territory of other WTO Members; (2) accord less favorable treatment to products originating in the United States; and (3) impose duties in excess of those set forth in India's schedule.

The United States held consultations with India on August 1, 2019, but these consultations did not resolve the dispute. At the U.S. request, the WTO established a panel on October 28, 2019, to examine the U.S. complaint. On January 7, 2020, following the agreement of the parties, the panel was composed as follows: Mr. Hugo Cayrús, Chair; and Mr. Anthony Abad and Mr. César Montaño Huerta, Members. Panel proceedings are ongoing.

*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 had previously requested consultations on prior versions of Indonesia's import licensing regimes governing the importation of horticultural products and animals and animal products, including the regime established 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 was 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 and February 2, 2016 and April 13 to April 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 on February 17, 2017. An appellate report was issued on November 9, 2017, affirming the finding of the Panel that all of Indonesia's measures are inconsistent with Article XI:1 of the GATT 1994 and that Indonesia had not established an affirmative defense with respect to any measure.

The WTO adopted the appellate report and the Panel report on November 22, 2017. A WTO arbitrator set the reasonable period of time for Indonesia to bring its measures into compliance with WTO rules to expire on July 22, 2018. On August 2, 2018, the United States requested WTO authorization to suspend concessions of other obligations pursuant to Article 22.2 of the DSU. On August 14, 2018, Indonesia objected to the United States' proposed level of suspension of concessions pursuant to Article 22.6 of the DSU, referring the matter to arbitration.

*Mexico – Additional Duties on Certain Products from the United States (DS560)*

On July 16, 2018, the United States requested consultations with Mexico with respect to its imposition of increased duties on certain products originating in the United States. Mexico increased the duties in retaliation for the action the President took under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The U.S. consultations request alleges that the increased duties contravene Mexico's obligations under the WTO Agreement because they fail to extend to U.S. products an advantage, favor, privilege or immunity granted by Mexico to products originating in the territory of other WTO Members.

The United States held consultations with Mexico on September 27, 2018, but these consultations did not resolve the dispute. At the U.S. request, the WTO established a panel to examine the U.S. complaint on

November 21, 2018. On January 25, 2019, the Director General composed the panel as follows: Mr. William Ehlers, Chair; and Mr. César Montaño Huerta and Mr. Fabián Villaroel Ríos, Members.

On May 28, 2019, the United States and Mexico jointly wrote to the panel advising it that they had reached a mutually agreed solution, terminating the dispute. The report of the panel was circulated to WTO Members and made public on July 11, 2019. In the report, the panel took note of the mutually agreed solution between the United States and Mexico.

*Russia – Additional Duties on Certain Products from the United States (DS566)*

On July 16, 2018, the United States requested consultations with Russia with respect to its imposition of additional duties on certain products originating in the United States. Russia imposed the additional duties in retaliation for the action the President took under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The U.S. consultations request alleges that the additional duties contravene Russia's obligations under the WTO Agreement because they: 1) fail to extend to U.S. products an advantage, favor, privilege or immunity granted by Russia to products originating in the territory of other WTO Members; 2) accord less favorable treatment to products originating in the United States; and 3) impose duties in excess of those set forth in Russia's schedule.

The United States held consultations with Russia on August 28, 2018, but these consultations did not resolve the dispute. At the U.S. request, the WTO established a panel on December 18, 2018 to examine the U.S. complaint. On January 25, 2019, the Director General composed the panel as follows: Mr. William Ehlers, Chair; and Ms. Petina Gappah and Mr. Syed Tauquir Hussain Shah, Members. Panel proceedings are ongoing.

*Turkey – Additional Duties on Certain Products from the United States (DS561)*

On July 16, 2018, the United States requested consultations with Turkey with respect to its imposition of additional duties on certain products originating in the United States. Turkey imposed the additional duties in retaliation for the action the President took under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The U.S. consultations request alleges that the additional duties contravene Turkey's obligations under the WTO Agreement because they: 1) fail to extend to U.S. products an advantage, favor, privilege or immunity granted by Turkey to products originating in the territory of other WTO Members; 2) accord less favorable treatment to products originating in the United States; and 3) impose duties in excess of those set forth in Turkey's schedule.

The United States held consultations with Turkey on August 29, 2018, as well as supplemental consultations on November 14, 2018, regarding an amendment to Turkey's measure imposing the additional duties. These consultations, however, did not resolve the dispute. At the request of the United States, on January 28, 2019 the WTO established a panel to examine the matter. On February 29, 2019, the Director General composed the panel as follows: Mr. William Ehlers, Chair; and Mr. Johannes Bernabe and Mr. Homero Larrea, Members. Panel proceedings are ongoing.

**Disputes Brought Against the United States**

This section includes summaries of dispute settlement activity 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 to 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 the U.S. Department of Commerce and the U.S. International Trade Commission'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 Phuangrach and Ms. Lidia di Vico, Members. On February 28, 2001, the Panel circulated its report, in which it rejected most of Japan's claims, but found that, *inter alia*, particular aspects of the antidumping duty calculation, as well as one aspect of the U.S. antidumping duty law, were inconsistent with the WTO Antidumping Agreement. On April 25, 2001, the United States filed a notice of appeal on certain issues in the Panel report.

The Appellate Body report was issued on July 24, 2001, reversing in part and affirming in part. The reports were adopted on August 23, 2001. Pursuant to a February 19, 2002 arbitral award, the United States was given 15 months, or until November 23, 2002, to implement the DSB's recommendations and rulings. On November 22, 2002, 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 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 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.

On May 10, 2019, the EU notified the DSB that it would maintain unchanged the list of products subject to retaliation, and would decrease the duty on those products from 0.3 percent to 0.001 percent. On August 15, 2019, 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 – Measures Affecting Trade in 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. 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. 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 circulated its report on June 9, 2017, with the following findings:

<u>Findings against the EU</u>

- 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 to 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.

<u>Findings against the United States</u>

- 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 consisted of Mr. Peter Van den Bossche, Mr. Thomas R. Graham, and Mr. Shree B.C. Servansing. On March 28, 2019, the Division circulated its report with the following relevant findings:

- The panel did not err in including DoD procurement contracts within its terms of reference, but the panel did not sufficiently engage with evidence and arguments regarding whether the funding conferred a benefit. However, there were insufficient factual findings by the panel or undisputed facts on the record for the Appellate Body to complete the analysis in this respect.

- The panel erred when considering whether revenue was "foregone" with respect to the FSC/ETI tax concessions by focusing on the conduct of eligible taxpayers rather than the government. The Appellate Body completed the legal analysis and found that the measure was inconsistent with the SCM Agreement to the extent that Boeing remains entitled to FSC/ETI tax concessions.

- The panel did not err in using the period following the end of the implementation period to assess whether Wichita industrial revenue bonds were specific because of the granting of disproportionately large amounts of subsidy to certain enterprises, but the panel erred in finding that no disparity existed between the expected and actual distribution of the subsidy. However, there were insufficient factual findings by the panel or undisputed facts on the record for the Appellate Body to complete its legal analysis in this respect.

- The panel did not err in its interpretation of the term "limited number" of certain enterprises with respect to the specificity of the South Carolina economic development bonds, but the panel erred by excluding evidence as to the percentage of bonds by value used by certain enterprises from its evaluation of whether the subsidy was specific by reason of predominant use by certain enterprises. However, there were insufficient factual findings by the panel or undisputed facts on the record for the Appellate Body to complete its legal analysis in this respect.

- The panel erred in the application of the term "designated geographical region" in assessing the specificity of the South Carolina MCIP job tax credits. The Appellate Body completed the legal analysis with respect to this and found that the subsidy was specific.

- The panel correctly found that the EU had failed to establish that there was a continuation of the original adverse effects of the pre-2007 aeronautics R&D subsidies into the post-implementation period in the form of present serious prejudice in relation to the A330 and A350XWB.

- The panel erred in in its analysis of whether the technology effects of the pre-2007 aeronautics R&D subsidies in relation to certain U.S. aircraft continued into the post-implementation period, and therefore, the panel's finding that the EU failed to establish that the pre-2007 R&D subsidies was a genuine and substantial cause of adverse effects to the A350XWB and A320neo in the post-implementation period was reversed. However, there were insufficient factual findings by the panel or undisputed facts on the record for the Appellate Body to complete its legal analysis in this respect, and there was no basis to conclude that the original adverse effects, in the form of technology effects, continued into the post-implementation period.

- The panel correctly found that the EU failed to establish that the tied tax subsidies cause adverse effects in the twin-aisle LCA market in the post-implementation period, but that there were adverse effects in the post-implementation period in the form of significant lost sales in the single-aisle LCA and in the form of threat of impedance of imports of Airbus single-aisle LCA in the U.S. and United Arab Emirates markets.

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, referring the matter 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. On June 5, 2019, at the request of the EU, the arbitration regarding the level of countermeasures was resumed.

*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 the cumulation 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 the U.S. Department of Commerce's countervailing duty determinations and the U.S. International Trade Commission'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 and July 10, 2013, and on October 8 and October 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. It also rejected India's "as such" claim regarding the U.S. statutory cumulation provision for five-year reviews, but found that the U.S. statute governing cumulation in the original investigations was inconsistent with Article 15 of the SCM Agreement because it required the cumulation of subsidized imports with dumped non-subsidized imports in the context of countervailing duty investigations. Applying this reasoning, the Panel also found that the U.S. International Trade Commission'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 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.

The Appellate Body found that the Panel had failed to conduct an objective examination of the U.S. cumulation statute. Without any relevant Panel factual findings or arguments by the parties, however, the Appellate Body erroneously found that one subsection of the cumulation provision—1677(7)(G)(i)(III)—is inconsistent with the SCM Agreement because it requires cumulation of subsidized imports with dumped non-subsidized imports in the context of countervailing duty investigations, without considering that this subsection could apply only if Commerce self-initiated an investigation on the same day that a petition was filed covering the same products.

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, the 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, the U.S. Department of Commerce issued its preliminary determination memos in the Section 129 proceedings, and on April 14, 2016, the U.S. Department of Commerce 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, and on March 28, 2018, India requested the establishment of a compliance panel. On May 31, 2018, the Panel was composed of the original panel members. The compliance Panel circulated its panel report on November 15, 2019. The compliance Panel rejected the majority of India's claims that the United States failed to bring its countervailing duty determination and injury determination into compliance. The United States prevailed on eight sets of claims, including with respect to USDOC's determination that the National Mineral Development Corporation is a public body, rejection of in-country benchmarks, use of out-of-country benchmarks, the calculation of benefit under the Steel Development Fund program, the inclusion of new subsidies in a review proceeding, disclosure of essential facts, the "appropriateness" of exceeding a terminated domestic settlement rate in a Section 129 proceeding, and all but one aspect of the injury determination. The compliance Panel found in favor of India on one specificity claim and on one injury issue. The compliance Panel also found that the United States' failure to amend one portion of the cumulation statute (19 USC § 1677(7)(G)(i)(III)) was inconsistent with the DSB recommendation made in the original proceedings of the dispute.

On December 18, 2019, the United States notified the DSB of its decision to appeal issues of law covered in the report of the compliance Panel and legal interpretations developed by the compliance Panel. Because no division of the Appellate Body can be established to hear this appeal, the United States is conferring with India to seek a positive solution to this dispute.

*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 through May 1, 2013, and on June 18 and June 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 and October 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 circulated its report on March 21, 2018. The compliance Panel found that Commerce's redeterminations that certain state-owned enterprises were "public bodies" were not inconsistent with Article 1.1(a)(1) of the SCM Agreement, and Commerce's Public Bodies Memorandum is not inconsistent with the SCM Agreement, "as such". The compliance Panel also upheld Commerce's redetermination concerning regional specificity. However, the compliance Panel found in favor of China with respect to China's claims regarding Commerce's calculation of benchmarks and its input specificity analysis.

On April 27, 2018, the United States appealed certain findings of the compliance Panel regarding the Public Bodies Memorandum, Commerce's benchmark and input specificity redeterminations, and whether certain Commerce determinations were within the compliance Panel's terms of reference. On May 2, 2018, China appealed certain findings of the compliance Panel regarding Commerce's redeterminations that certain state-owned enterprises were "public bodies", the Public Bodies Memorandum, and the legal interpretation of Articles 1.1(b) and 14(d) of the SCM Agreement. The three persons hearing the appeal were Thomas R. Graham as Presiding Member, and Ujal Singh Battia and Shree B.C. Servansing. An appellate report was circulated on July 16, 2019. The appellate majority upheld the findings of the compliance Panel. The appellate report includes a lengthy dissent that calls into question the reasoning and interpretative analysis of the appellate majority and prior Appellate Body reports.

The DSB considered the appellate report and the compliance Panel report, as modified by the appellate report, at its meeting on August 15, 2019. The United States noted in its DSB statement that, through the interpretations applied in this proceeding, based primarily on erroneous approaches by the Appellate Body in past reports, the WTO dispute settlement system is weakening the ability of WTO Members to use WTO tools to discipline injurious subsidies. The Subsidies Agreement is not meant to provide cover for, and render untouchable, one Member's policy of providing massive subsidies to its industries through a complex web of laws, regulations, policies, and industrial plans. Finding that the kinds of subsidies at issue in this dispute cannot be addressed using existing WTO remedies, such as countervailing duties, calls into question the usefulness of the WTO to help WTO Members address the most urgent economic problems in today's world economy. The United States noted specific aspects of the findings of the appellate report that are erroneous and undermine the interests of all WTO Members in a fair trading system, including erroneous interpretations of "public body" and out-of-country benchmark, diminishing U.S. rights and adding to U.S. obligations, engaging in fact-finding, and treating prior reports as "precedent."

On October 17, 2019, China requested authorization to suspend concessions and other obligations pursuant to Article 22.2 of the DSU. On October 25, 2019, the United States objected to China's request, referring the matter to arbitration pursuant to Article 22.6 of the DSU. On November 15, 2019, the WTO notified the parties that the arbitration would be carried out by the panelists who served during the compliance proceeding: Mr. Hugo Perezcano Diaz, Chair; and Mr. Luis Catibayan and Mr. Thinus Jacobsz, Members.

*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 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.

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 January 11, 2018, Korea requested authorization to suspend concessions and other obligations pursuant to Article 22.2 of the DSU. On January 19, 2018, the United States objected to Korea's request, referring the matter to arbitration pursuant to Article 22.6 of the DSU. On February 6, 2018, the WTO notified the parties that the arbitration would be carried out by the original panelists: Ms. Claudia Orozco, Chair; and Mr. Mazhar Bangash and Mr. Hanspeter Tschaeni, Members. The arbitrator circulated its decision on February 8, 2019. The arbitrator determined that the level of nullification or impairment to Korea from U.S. noncompliance with respect to the antidumping and countervailing duty measures on washers totaled no more than $84.81 million per year, and the arbitrator further specified a formula for calculating the nullification or impairment for products other than washers.

On May 6, 2019, Commerce published a notice in the U.S. *Federal Register* announcing the revocation of the antidumping and countervailing duty orders on washers (84 Fed. Reg. 19,763 (May 6, 2019)). With this action, the United States has completed implementation of the DSB recommendations concerning those antidumping and countervailing duty orders.

*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 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 and February 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 Arbitrator determined the reasonable period of time to be 15 months, expiring on August 22, 2018.

On September 9, 2018, China requested authorization to suspend concessions and other obligations pursuant to Article 22.2 of the DSU. On September 19, 2018, the United States objected to China's request, referring the matter to arbitration. On October 5, 2018, the WTO notified the parties that the arbitration would be carried out by the original panelists: Mr. José Pérez Gabilondo, Chair; and Ms. Beatriz Leycegui Gardoqui and Ms. Enie Neri de Ross, Members. The arbitrator circulated its decision on November 1, 2019. The arbitrator determined that the level of nullification or impairment to China from U.S. noncompliance with respect to determinations made by the U.S. Department of Commerce (Commerce) in a number of antidumping proceedings involving goods from China, as well as certain methodologies China claimed Commerce applies in antidumping proceedings, totaled no more than $3.579 billion per year.

*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, 2015 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, 2015 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 and July 21, 2016, and November 1 and November 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 that 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 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. On February 26, 2018, the United States and Korea informed the DSB that they had agreed that the reasonable period of time to implement the DSB's recommendations and rulings would be 12 months, expiring on January 12, 2019. On November 23, 2018, Commerce published a notice in the *Federal Register* commencing a proceeding to gather information, analyze record evidence, and consider the determinations which would be necessary to bring its measures into conformity with the DSB recommendations and rulings. On January 11, 2019, the United States and Korea informed the DSB that they had mutually agreed to extend the reasonable period of time for an additional six months, expiring on July 12, 2019.

On July 5, 2019, Commerce published a final decision memorandum, addressed all comments submitted by interested parties, and implemented the recommendations and rulings of the DSB in a manner that respects U.S. WTO obligations. On July 11, 2019, the United States informed the DSB that these actions brought the United States into compliance with the panel findings in this dispute.

On July 29, 2019, Korea requested the authorization of the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU on the grounds that the United States had failed to comply with the DSB's recommendations and rulings within the reasonable period of time. On August 8, 2019, the United States objected to Korea's proposed level of suspension of concessions pursuant to Article 22.6 of the DSU, referring the matter to arbitration.

*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 presented 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 alleged that the U.S. measures at issue were 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 and March 22, 2017 and on June 13 and June 14, 2017. The panel report was circulated on July 5, 2018. The panel report, among other things, upheld Canada's claims with respect to the U.S. Department of Commerce treatment of subsidies that exporters refused to disclose in response to Commerce questionnaires, but which Commerce subsequently discovered during the course of the countervailing duty investigation. The U.S. Department of Commerce terminated the countervailing duties on July 5, 2018.

On August 27, 2018, the United States notified the DSB of its decision to appeal the Panel's findings related to the treatment of undisclosed subsidies discovered during the course of a countervailing duty investigation. The persons hearing the appeal were Ujal Singh Battia as Presiding Member, and Thomas R. Graham and Hong Zhao.

*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 California, Connecticut, Delaware, Massachusetts, Michigan, Minnesota, Montana, and Washington.

India's request alleges the U.S.-state measures are inconsistent with: Articles III:4, XVI:1, and XVI:4 of the GATT 1994; Article 2.1 and 2.2 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 and November 17, 2016.

A panel was established on March 21, 2017. On April 11, 2018, India requested the Director-General to compose the panel. On April 21, 2018 the Panel was composed by the Director-General to include: Mr.

Alberto Juan Dumont, Chair; and Ms. Penelope Jane Ridings and Mr. Miguel Rodriguez Mendoza, Members.

The panel circulated its report on June 27, 2019. The Panel found that certain measures maintained by the states of California, Massachusetts, Minnesota, and Washington were not within its terms of reference. With respect to the other measures, the panel found that each of the measures was inconsistent with Article III:4 of the GATT 1994 because it accorded less favorable treatment to imported products as compared to like domestic products. The Panel exercised judicial economy on India's claims under Articles 2.1 and 2.2 of the TRIMS Agreement and Articles 3.1(b) and 3.2 of the SCM Agreement.

On August 15, 2019, the United States notified the DSB of its decision to appeal certain issues of law and legal interpretations in the panel report. On August 20, 2019, India notified the DSB of its decision to appeal.

*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; and 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 antidumping 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;
- 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 challenged 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 and February 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" were 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;

- 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. The parties consulted in December 2016 and November 2017, but China has not moved forward with panel proceedings.

*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 the U.S. Department of 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 injury, Turkey challenges the U.S. International Trade Commission's "practice" of cross-cumulating imports, as well as the application of that practice in the underlying determinations.

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 circulated its report on December 18, 2018. With respect to public body, the panel found that the Commerce acted inconsistently with Article 1.1(a)(1) by failing to apply the standard set out previously by the Appellate Body, and failing to establish based on record evidence that the relevant entities were public bodies. With respect to benchmarks as such, the panel rejected Turkey's claims that Commerce has a practice of rejecting in-country benchmarks solely based on majority or substantial government ownership or control of the market. For benchmarks as applied, the panel declined to make a finding under Article 14(d) of the SCM Agreement because the relevant determination had ceased to have legal effect prior to the panel's establishment. With respect to specificity, the panel found that Commerce acted inconsistently with Articles 2.1(c) and 2.4 of the SCM Agreement by failing to identify and clearly substantiate the existence of a subsidy program, and failing to take into account the extent of diversification of Turkey's economy and the length of time in which the program had been in place. With respect to facts available, the panel found the U.S. Department of Commerce acted inconsistently with Article 12.7 of the SCM Agreement by failing to do a comparative process of reasoning and evaluation before selecting from the facts available in certain circumstances. With respect to injury, the panel found that Article 15.3 of the SCM Agreement does not permit the U.S. International Trade Commission (USITC) to assess cumulatively the effects of imports not subject to countervailing duty investigations with the effects of imports subject to countervailing duty investigations. The panel thus found cross-cumulation by the USITC, both in the original investigations at issue and as a practice, to be inconsistent with Article 15.3. With respect to cross-cumulation in sunset reviews, the panel found the USITC did not act inconsistently with Article 15.3 of the SCM Agreement, either "as such" or in connection with the sunset review at issue.

On January 25, 2019, the United States notified the DSB of its decision to appeal certain legal conclusions and interpretations of the panel. On January 30, 2019, Turkey also filed an appeal. The persons hearing this appeal were Ujal Singh Bhatia as Presiding Member, and Thomas Graham and Hong Zhao.

*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. At Canada's request, the WTO established a panel on April 9, 2018. On July 6, 2018, the Director General composed the panel as follows: Ms. Enie Neri de Ross, Chair; and Mr. Gustav Brink and Mr. Alberto Trejos, Members. Panel proceedings are ongoing.

*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. At Canada's request, the WTO established a panel on April 9, 2018. On May 22, 2018, the Director General composed the panel as follows: Mr. Thinus Jacobsz, Chair; and Ms. María Valeria Raiteri and Mr. Guillermo Valles, Members.

The panel circulated its report on April 9, 2019. The panel found that Commerce's use of zeroing when applying the average-to-transaction comparison methodology was not inconsistent with the AD Agreement or the GATT 1994. Among other things, the panel reasoned that nothing in the text of the Antidumping Agreement directly addresses the use of zeroing. The panel agreed with the United States that, if the use of zeroing were prohibited in connection with the alternative, targeted dumping methodology, then the alternative calculation methodology necessarily always would result in a margin of dumping that is mathematically equivalent to that calculated using the normal calculation methodology, which would render the alternative methodology useless. In coming to its conclusion, the panel also examined and disagreed with findings in prior WTO panel and Appellate Body reports. The panel explained why it found the approach of those reports not persuasive.

The panel also found that one aspect of Commerce's differential pricing analysis – in which Commerce aggregated differences in export prices across categories (*i.e.*, purchasers, regions, and time periods) to find a single pattern of export prices which differed significantly among different purchasers, regions, and time periods – was inconsistent with the requirements of the WTO Antidumping Agreement.

On June 4, 2019, Canada notified the DSB of its decision to appeal certain of the panel's findings. The persons hearing this appeal were Hong Zhao as Presiding Member, and Ujal Singh Bhatia and Thomas Graham.

*United States – Certain Systemic Trade Remedies Measures from Canada (DS535)*

On December 20, 2017, Canada requested consultations with the United States concerning certain laws, regulations, and practices that Canada claims are maintained by the U.S. in its AD and CVD proceedings. Specifically, Canada alleges that the United States: (1) fails to implement WTO-inconsistent findings by liquidating final duties in excess of WTO-consistent rates, and failing to refund cash deposits collected in excess of WTO-consistent rates; (2) retroactively collects provisional AD and CVD duties following preliminary affirmative critical circumstances determinations; (3) treats export controls as a financial contribution and improperly initiates investigations into and/or imposes duties; (4) improperly calculates the benefit in determining whether there is a provision of goods for less than adequate remuneration; (5) effectively closes the evidentiary record before the preliminary determination and fails to exercise its discretion to accept additional factual information; and, (6) creates an institutional bias in favor of affirmative results in injury, threat of injury, or material retardation when the commissioners of the U.S. International Trade Commission are evenly divided on whether a determination should be affirmative or negative.

Canada claims these alleged measures are inconsistent with Articles VI (in particular, VI:2 and VI:3) and X:3(a) of the GATT 1994; Articles 1, 3.1, 6 (in particular, 6.1, 6.2, and 6.9), 7 (in particular, 7.4 and 7.5), 9 (in particular, 9.2, 9.3, 9.3.1, and 9.4), 10 (in particular, 10.1 and 10.6), 11 (in particular 11.1 and 11.2), 18 (in particular, 18.1 and 18.4) of the AD Agreement; Articles 1 (in particular, 1.1(a) and 1.1(b)), 10, 11 (in particular, 11.2, 11.3, and 11.6), 12 (in particular, 12.1 and 12.8), 14(d), 15.1, 17 (in particular, 17.3, 17.4, and 17.5), 19 (in particular, 19.1, 19.3 and 19.4), 20 (in particular, 20.1 and 20.6), 21 (in particular, 21.1 and 21.2), and 32 (in particular, 32.1 and 32.5) of the SCM Agreement; and Articles 21.1 and 21.3 of the DSU.

Consultations between the United States and Canada took place on February 6, 2018.

*United States — Anti-Dumping Measures on Fish Fillets from Vietnam (DS536)*

On January 8, 2018, Vietnam requested consultations concerning antidumping measures on fish fillets from Vietnam. Vietnam claimed that Commerce's determinations, as well as certain methodologies used by Commerce, are inconsistent with U.S. obligations under Articles 1, 2.1, 2.4, 2.4.2, 6, 9, 11, 17.6, and Annex II of the AD Agreement; Articles I:1, VI:1, VI:2, and X:3(a) of the GATT 1994; and Vietnam's Protocol of Accession. The United States and Vietnam held consultations on March 1, 2018, but were unable to resolve the dispute. On June 8, 2018, Vietnam requested the establishment of a panel. The DSB established a panel on July 20, 2018. On December 3, 2018, the WTO Director General composed the panel as follows: Mr. José Alfredo Graça Lima, Chair; and Mr. Shahid Bashir and Mr. Greg Weppner, Members. Panel proceedings are ongoing.

*United States – Anti-Dumping and Countervailing Duties on Certain Products and the Use of Facts Available (DS539)*

In February 2018, Korea requested WTO dispute settlement consultations regarding the U.S. Department of Commerce's use of facts available in certain antidumping and countervailing duty measures against Korea, and certain laws, regulations, and other measures maintained by the United States with respect to the use of facts available in antidumping and countervailing duty proceedings. The United States and Korea held consultations in March 2018, but those consultations failed to resolve the dispute. On April 27, 2018,

Korea requested the establishment of a panel. On May 28, 2018, the DSB established a panel. Following agreement of the parties, a panel was composed on December 5, 2018, as follows: Ms. Marta Calmon Lemme, Chair; and Ms. Leora Blumberg and Mr. Matthew Kennedy, Members. Panel proceedings are ongoing.

*United States – Certain Measures Concerning Pangasius Seafood Products from Vietnam (DS540)*

On February 22, 2018, Vietnam requested consultations concerning certain sanitary and phytosanitary measures related to the importation of *Pangasius* seafood and seafood products into the United States. Vietnam claimed that the Department of Agriculture's rules regarding the importation of *Pangasius* seafood into the United States are inconsistent with U.S. obligations under Articles 2.2, 2.3, 4.1, 5.1, 5.3, 5.6, 8 and Annex C of the SPS Agreement; and Articles I:1 and XI.1 of the GATT 1994. The United States and Vietnam held consultations on May 2, 2018.

*United States – Tariff Measures on Certain Goods from China (DS543)*

On April 4, 2018, China requested consultations with the United States concerning certain tariff measures on Chinese goods that the United States might implement under Section 301-310 of the U.S. Trade Act of 1974. China alleged that the tariff measures are inconsistent with U.S. commitments and obligations under the Articles I:1, II:1(a), and II:1(b) of the GATT 1994 and Article 23 of the DSU. On July 6, July 16, and September 18, respectively, China requested additional consultations regarding tariff measures imposed under Section 301 that supplemented its original consultations request of April 4, 2018. The United States and China held consultations in Geneva on August 28 and October 22, 2018.

On December 6, 2018, China requested the establishment of a panel. A panel was established on January 28, 2019. The Panel was composed on June 3, 2019. Following the resignation of a panelist on September 25, 2019, the Director-General appointed a new panelist on October 17, 2019. The panel includes: Mr. Alberto Juan Dumont, Chair; and Mr. Álvaro Espinoza and Ms. Athaliah Lesiba Molokomme, Members. Panel proceedings are ongoing.

*United States – Certain Measures on Steel and Aluminum Products (DS544)*

On April 5, 2018, China requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. China claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and China held consultations on July 19, 2018, but the consultations failed to resolve the dispute. At China's request, the WTO established a panel on November 21, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. Panel proceedings are ongoing.

*United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (DS545)*

On May 14, 2018, Korea requested consultations with the United States concerning a safeguard measure imposed by the United States on imports of certain crystalline silicon photovoltaic (CSPV) cells, whether or not partially or fully assembled into other products, such as modules. Korea claimed that the measure appears to be inconsistent with Articles 1, 2.1, 3.1, 3.2, 4.1, 4.2, 5.1, 5.2, 7.1, 7.4, 8.1, 12.1, 12.2, and 12.3 of the Agreement on Safeguards; and Articles II:1, X:3, XIII, and XIX:1(a) of the GATT 1994. China, the EU, Malaysia, and Thailand requested to join the consultations, and the United States accepted each request. Consultations were held on June 26, 2018.

At Korea's request, the WTO established a panel on September 26, 2018.

*United States – Safeguard Measure on Imports of Large Residential Washers (DS546)*

On May 14, 2018, Korea requested consultations with the United States concerning a safeguard measure imposed by the United States on imports of large residential washers. Korea claimed that the measure appears to be inconsistent with Articles 1, 2.1, 2.2, 3.1, 3.2, 4.1, 4.2, 5.1, 7.1, 7.4, 8.1, 12.1, 12.2, and 12.3 of the Agreement on Safeguards; and Articles I:1, II, X:3 and XIX:1(a) of the GATT 1994. Thailand requested to join consultations, and the United States accepted Thailand's request. Consultations were held on June 26, 2018.

At Korea's request, the WTO established a panel on September 26, 2018. On July 1, 2019, the Panel was composed by the Director-General to include: Mr. Alexander Hugh McPhail, Chair, and Mr. Welber Oliveira Barral and Ms. Stephanie Sin Far Lee, Members. Panel proceedings are ongoing.

*United States – Certain Measures on Steel and Aluminum Products (DS547)*

On May 18, 2018, India requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. India claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and India held consultations on July 20, 2018, but the consultations failed to resolve the dispute. At India's request, the WTO established a panel on December 4, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. Panel proceedings are ongoing.

*United States – Certain Measures on Steel and Aluminum Products (DS548)*

On June 1, 2018, the EU requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. The EU claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and the EU held consultations on July 19, 2018, but the consultations failed to resolve the dispute. At the EU's request, the WTO established a panel on November 21, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. Panel proceedings are ongoing.

*United States – Certain Measures on Steel and Aluminum Products (DS550)*

On June 1, 2018, Canada requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. Canada claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and Canada held consultations on July 20, 2018, but the consultations failed to resolve the dispute. At Canada's request, the WTO established a panel on November 21, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. On May 23, 2019, the United States and Canada informed the DSB that they had reached a mutually agreed solution, terminating the dispute.

*United States – Certain Measures on Steel and Aluminum Products (DS551)*

On June 5, 2018, Mexico requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. Mexico claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and Mexico held consultations on July 20, 2018, but the consultations failed to resolve the dispute. At Mexico's request, the WTO established a panel on November 21, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. On May 28, 2019, the United States and Mexico informed the DSB that they had reached a mutually agreed solution, terminating the dispute.

*United States – Certain Measures on Steel and Aluminum Products (DS552)*

On June 13, 2018, Norway requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. Norway claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and Norway did not hold consultations. At Norway's request, the WTO established a panel on November 21, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. Panel proceedings are ongoing.

*United States – Certain Measures on Steel and Aluminum Products (DS554)*

On June 29, 2018, Russia requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. Russia claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and Russia held consultations on August 30, 2018, but the consultations failed to resolve the dispute. At Russia's request, the WTO established a panel on November 21, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. Panel proceedings are ongoing.

*United States – Certain Measures on Steel and Aluminum Products (DS556)*

On July 9, 2018, Switzerland requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. Switzerland claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and Switzerland held consultations on August 30, 2018, but the consultations failed to resolve the dispute. At Switzerland's request, the WTO established a panel on December 4, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. Panel proceedings are ongoing.

*United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (DS562)*

On August 14, 2018, China requested consultations with the United States concerning a safeguard measure imposed by the United States on imports of certain crystalline silicon photovoltaic (CSPV) cells, whether or not partially or fully assembled into other products, such as modules. China claimed that the measure

appears to be inconsistent with Articles 2.1, 2.2, 3.1, 3.2, 4.1, 4.2, 5.1, 7.1, 7.4, 8.1, 12.1, 12.2, and 12.3 of the Agreement on Safeguards; and Articles X:3, XIII, XIX:1(a), and XIX:2 of the GATT 1994. The EU and Thailand requested to join the consultations, and the United States accepted each request. Consultations were held on October 22, 2018.

At China's request, the WTO established a panel on August 15, 2019. On October 24, 2019, the Panel was composed by the Director-General to include: Mr. Guillermo Valles, Chair; and Mr. José Antonio de la Puente León and Ms. Chantal Ononaiwu, Members. Panel proceedings are ongoing.

*United States — Certain Measures Related to Renewable Energy (DS563)*

On August 2018, China requested consultations with the United States concerning certain measures adopted and maintained in the states of California, Michigan, and Washington in relation to alleged subsidies or domestic content requirements in the energy sector. China alleges that the measures appear to be inconsistent with U.S. obligations under Articles 3.1(b) and 3.2 of the SCM Agreement, Articles 2.1 and 2.2 of the TRIMS Agreement, and Article III:4 of the GATT 1994. The United States and China held consultations in Geneva on October 23, 2018.

*United States – Certain Measures on Steel and Aluminum Products (DS564)*

On August 15, 2018, Turkey requested consultations concerning certain duties that the United States had imposed under Section 232 of the Trade Expansion Act of 1962, as amended, on imports of steel and aluminum products that threaten to impair U.S. national security. Turkey claimed that imposition of the duties breached various provisions of the GATT 1994, and the Agreement on Safeguards. The United States and Turkey held consultations on October 10, 2018, but the consultations failed to resolve the dispute. At Turkey's request, the WTO established a panel on November 21, 2018. On January 25, 2019, the Panel was composed by the Director-General to include: Mr. Elbio Rosselli, Chair; and Mr. Esteban B. Conejos, Jr. and Mr. Rodrigo Valenzuela, Members. Panel proceedings are ongoing.

*United States – Tariff Measures on Certain Goods from China II* (DS565)

On August 23, 2018, China requested consultations with the United States concerning certain tariff measures on Chinese goods that the United States might implement under Section 301-310 of the U.S. Trade Act of 1974. China alleges that the tariff measures are inconsistent with United States' commitments and obligations under Articles I:1, II:1(a), and II:1(b) of the GATT 1994 and Article 23 of the DSU. The United States and China held consultations in Geneva on October 22, 2018.

*United States – Anti-Dumping and Countervailing Duties on Ripe Olives from Spain (DS577)*

On January 29, 2019, the EU requested consultations with the United States concerning the imposition of antidumping and countervailing duties on ripe olives from Spain. The EU alleges that the duties imposed, as well as the administrative acts and legislation that were the basis for the imposition of those duties, appear to be inconsistent with various provisions of the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures and the GATT 1994. The United States and the EU held consultations on March 20, 2019, but the consultations failed to resolve the dispute. At the EU's request, the WTO established a panel on June 24, 2019. The Director-General of the WTO composed the panel on October 18, 2019, as follows: Mr. Daniel Moulis, Chair; and Mr. Martin Garcia and Ms. Charis Tan, Members. Panel proceedings are ongoing.

*United States – Anti-Dumping Measures on Carbon-Quality Steel from Russia (DS586)*

On July 5, 2019, Russia requested consultations with the United States concerning antidumping duty measures pertaining to hot-rolled flat-rolled carbon quality steel products from Russia. Russia alleges that the measures appear to be inconsistent with various provisions of the Antidumping Agreement and the GATT 1994. The United States and Russia held consultations in Geneva on September 11, 2019.

# E. Other Activities

## 1. Generalized System of Preferences

The following section also serves as the annual report on enforcement of eligibility criteria to the Committee on Ways and Means of the U.S. House of Representatives and the Committee on Finance of the U.S. Senate, as required by Public Law No. 115-141, division M, title V, section 501(c).

**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 10-year period, beginning on January 1, 1976. Congress has reauthorized the program 14 times since. The most recent reauthorization, in March 2018, authorizes the program through December 31, 2020.

The Generalized System of Preferences (GSP) is a non-reciprocal trade preference program that allows eligible exports from designated developing countries to enter the United States duty free. The GSP program was designed to support the creation of trade opportunities for developing countries, encouraging broad-based economic development and sustaining momentum for economic reform and liberalization in beneficiary countries. As of January 1, 2020, there were 119 designated GSP beneficiary developing countries (BDCs) and territories. Forty-four countries and territories are designated least-developed beneficiary developing countries (LDBDCs) under the GSP program, and as such are eligible for a broader range of duty-free benefits.

However, the Trump Administration has concerns that some countries have taken advantage of the program's non-reciprocal nature and benefited from certain duty-free exports to the United States without sufficient oversight by USTR into the country's conditions for GSP eligibility. Therefore, as described below, the Trump Administration is focused on reviewing both individual beneficiary countries' ongoing eligibility in particular, in addition to the GSP program as a whole.

**Enforcement of GSP Eligibility Criteria**

The Trump Administration has placed a significant focus on enforcing the GSP eligibility criteria established by Congress, and ensuring that all countries receiving GSP benefits are meeting these criteria. These include, but are not limited to, enforcing arbitral awards in favor of U.S. citizens or corporations, respecting internationally recognized worker rights, providing the United States with equitable and reasonable market access, reducing trade-distorting investment practices, and providing adequate and effective protection of intellectual property (IP) rights to U.S. rights holders. The heightened focus on enforcement provides a valuable trade policy tool to improve compliance with GSP criteria and assist the United States in reaching trade policy goals to benefit U.S. producers, farmers, ranchers, and workers.

In 2018, the Administration implemented a multipronged effort to enforce the GSP eligibility criteria established by Congress. This effort includes: (1) assessing all GSP beneficiary countries' eligibility

through an interagency process over a three-year period to determine whether to self-initiate reviews of eligibility; (2) accepting petitions to review beneficiary countries' eligibility; (3) encouraging countries to address issues in existing GSP eligibility reviews on an expedited basis or face loss of GSP benefits; and, (4) engaging with beneficiary countries that are not currently subject to an eligibility review to emphasize the need to comply with all of the GSP eligibility criteria.

*Triennial Assessment Process*

The triennial assessment process systematically examines 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. Each year, USTR and other relevant agencies assess beneficiary countries in particular regions of the world. In 2018, USTR conducted the first round of assessments for the 25 GSP beneficiary countries in Asia and the Pacific. As a result of the first round of the triennial assessment, USTR self-initiated country eligibility reviews of India and Indonesia under the market access criteria. Additionally, USTR self-initiated a review of Turkey. In 2019, USTR conducted the second round of assessments, covering the 25 GSP beneficiary countries in the Western Hemisphere and Europe. As a result of the second round, USTR self-initiated a country eligibility review of Azerbaijan under the worker rights criterion. In 2020, USTR will conduct the third and final review in the triannual assessment process, covering 53 GSP beneficiary countries in the Middle East and Africa.

*New Petitions for Reviews of Country Eligibility*

In 2019, USTR accepted one petition from a U.S. stakeholder to review South Africa's GSP eligibility based on alleged violations of the IP rights criterion.

*Engagement on Outstanding Country Practice Cases*

USTR has intensified action to press countries with existing country eligibility reviews launched in prior years to address their compliance with the GSP eligibility criteria. In early 2019, there were 15 outstanding cases, including: reviews of Indonesia, Ukraine, and Uzbekistan regarding IP protection and IP enforcement concerns; reviews of Bolivia, Georgia, Iraq, Kazakhstan, Thailand, and Uzbekistan regarding worker rights or child labor concerns; a review of Ecuador regarding arbitral awards; review of India, Indonesia, Thailand, and Turkey regarding market access; and review of Indonesia regarding services and investment market access. An application for new GSP benefits for Laos remained outstanding at the end of 2019, pending a finding that Laos is meeting all of the GSP eligibility criteria. For a complete list of the country practice and country eligibility petitions that remained under review as of January 2020, see the Ongoing Country Reviews.

For each country eligibility review, USTR officials also held multiple bilateral engagements with the country's government to outline specific steps that the country could take to comply with the GSP eligibility criteria.

The President restored a portion of Ukraine's GSP benefits, effective October 30, 2019, following the April 2018 partial suspension of these benefits for failure to provide adequate and effective protection of IP rights. Ukraine made progress in providing adequate and effective protection of IP rights, and the United States restored GSP benefits to 138 tariff lines while continuing the suspension of nine tariff lines.

The President removed Turkey from GSP eligibility, effective May 16, 2019, following a determination that Turkey is sufficiently economically developed and should no longer benefit from preferential market access to the United States market.

The President removed India from GSP eligibility, effective May 31, 2019, following a determination that India did not comply with the GSP market access criterion.

On October 25, 2019, the President removed a portion of Thailand's GSP benefits, effective on April 25, 2020, following a determination that Thailand is not complying with the GSP worker rights criterion.

USTR also closed GSP eligibility reviews with no loss of GSP eligibility for three countries: Bolivia and Iraq, based on improvements in the protection of worker rights in those countries, and Uzbekistan, based on improvements in its protection and enforcement of intellectual property rights.

*Engagement with other GSP beneficiary countries*

USTR emphasized to GSP beneficiary countries not currently under review the importance of complying with GSP eligibility criteria during numerous bilateral engagements.

**Eligible Products**

As of January 1, 2020, approximately 3,500 non-import sensitive products (as defined at the HS-8 tariff level) were eligible for duty-free treatment under the GSP program, 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. Products receiving 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. The GSP statute precludes certain import-sensitive articles from receiving GSP treatment, including textiles and apparel, watches, most footwear, certain glassware, and certain gloves and leather products.

**Annual GSP Product Review**

Each year, USTR leads the interagency Trade Policy Staff Committee (TPSC) in reviewing the list of products eligible for GSP benefits and provides recommendations on appropriate actions based on statutory criteria, including exclusions from duty-free treatment of products from certain countries when they have reached certain statutory thresholds related to competitiveness ("competitive need limitations," or CNLs).

For the 2019 Annual GSP Product Review, USTR received 48 petitions to add products to the list of GSP-eligible products, 100 petitions to reinstate ("redesignate") products, two petitions to remove products from the list of GSP-eligible products, and four petitions to waive CNLs for products.

The Administration did not accept for review any of the 48 petitions for product additions.

As a result of the 2019 Annual GSP Product Review, the President denied the two petitions to remove Polyethylene Terephthalate (PET) resin from GSP eligibility for Pakistan, allowing these products to continue to enter the United States duty free.

The President granted a petition to redesignate fresh-cut orchids from Thailand to GSP; qualifying products, therefore, now enter the United States duty free. The President also granted a petition to redesignate bamboo plywood and certain tropical hardwood plywood from Indonesia to GSP; qualifying products, therefore, now enter the United States duty-free.

The President granted a petition for a CNL waiver for plastic spectacle lenses from Thailand; qualifying products will continue to enter the United States duty-free. The President denied a petition for a CNL waiver for stearic acid from Indonesia; therefore, the product is subject to the NTR duty rate.

Motor vehicles with diesel engine for 16 or more passengers from North Macedonia exceeded the CNL. No petition was received; therefore, the product now enters the United States at the NTR duty rate.

The President granted one-year *de minimis* waivers to 27 products that exceeded the 50-percent import-share CNL, but for which the aggregate value of all U.S. imports of that article was below the 2018 *de minimi*s level of $24 million. These products will continue to enter the United States duty free.

In 2019, USTR held a public hearing on July 2, 2019 for the 2019 Annual GSP Product Review. Eleven parties testified at the hearing and provided written submissions. Full transcripts from the hearings, as well as the submissions that USTR received, are available to the public online.

*Value of Trade Entering the United States under the GSP program*

The most recent data shows that the value of U.S. imports claimed under the GSP program during 2019 was $20.9 billion. This was a 12.45 percent decrease from the $23.8 billion in GSP imports in 2018, following a 10.3 percent increase in GSP imports from 2017 to 2018.

During 2019, imports under GSP accounted for less than 1 percent of all U.S. imports of goods. Imports from BDCs and LDBDCs coming in under GSP accounted for 8.9 percent of total imports from those countries during the same period. Total U.S. imports of all products (both GSP eligible and non-eligible products) from GSP beneficiary countries were 1.3 percent lower, by value, during 2019 than during the same period in 2018. GSP imports from least-developed countries (LDBDCs), however, rose from $1.1 billion to $2.1 billion, or by 84.4 percent, and accounted for 10.0 percent of GSP imports.

Top U.S. imports under the GSP program during 2019, by value at HTS-8 level, were gold necklaces, travel and sports bags, plastic sheeting handbags, rubber gloves, and leather handbags.

The top five GSP users in 2019 were, in order: Thailand, India, Indonesia, Brazil, and the Philippines. The five leading LDBDC GSP users were: Cambodia, Burma, Chad, Angola, and Nepal.

## 2. 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 Generalized System of Preferences (GSP) program. The additional products include value-added agricultural and manufactured goods such as processed food products, apparel, and footwear. In 2018, 39 sub-Saharan African countries were eligible for AGOA benefits. As a result of the 2019 annual AGOA eligibility review, 38 sub-Saharan African countries are eligible for AGOA benefits in 2020, following the termination of Cameroon's AGOA eligibility, effective January 1, 2020.

In response to AGOA's scheduled end in 2025, USTR launched a free trade agreement (FTA) initiative designed to build on the program's successes and established a model agreement that could be replicated across the continent, unlocking economic opportunity for mutual benefit. This model FTA accords with Congress' statement of policy, set out in Section 103(4) of the African Growth and Opportunity Act, to negotiate reciprocal and mutually beneficial trade agreements, including the possibility of establishing free trade areas that serve the interests of both the United States and the countries of sub-Saharan Africa.

*For a discussion on the 2019 AGOA Forum and the Joint Statement between the United States and the African Union, see Chapter I.D.6.*

*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: (1) a market-based economy; (2) rule of law; (3) poverty-reduction policies; (4) a system to combat corruption and bribery; and (5) protection of internationally recognized worker 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, 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. (*For more information on the AGOA Program, see Chapter I.D.6*).

The annual review conducted in 2019 resulted in the termination of Cameroon's AGOA eligibility, effective January 1, 2020. The President determined that Cameroon engages in gross violations of internationally recognized human rights. These violations include extrajudicial killings, arbitrary and unlawful detention, and torture.

*Value of Trade Entering the United States under the AGOA Program*

Total AGOA (including GSP) imports declined to $11.4 billion during January to November 2018, compared to $12.1 billion during January to November 2017, mostly due to a decrease in imports of oil (down 7.3 percent) to $7.6 billion during January to November 2018, compared to $8.2 billion during January to November 2017. AGOA non-oil trade declined by 2.6 percent to $3.8 billion during January toNovember 2018, compared to $3.9 billion during January to November 2017. There was a 48.6 percent decline in transportation equipment imports under AGOA to $555.6 million during January to November 2018 from $1.08 billion during January to November 2017 and a 19.8 percent increase in AGOA apparel trade ($1.14 billion compared to $947.5 million during January to November 2017).

Top U.S. imports under the AGOA program during January to November 2018, by trade value, were mineral fuels, woven apparel, motor vehicles and parts, knit apparel, and ferroalloys. During January to November 2018, based on trade value, the top five AGOA suppliers were, in order, Nigeria, South Africa, Angola, Chad, and Kenya.

AGOA (including GSP) imports for 2018 totaled $12 billion, up 46 percent compared to 2001 (the first full-year of AGOA trade). Petroleum products continued to account for the largest portion of AGOA imports with a 67 percent share of overall AGOA imports. AGOA non-oil imports were $4.0 billion in 2018, about triple the amount in 2001. Several non-oil sectors experienced sizable increases during this period, including apparel, auto parts, macadamia nuts, jewelry, fresh oranges, and footwear. South Africa is the largest non-oil AGOA beneficiary.

Leading AGOA import categories were crude oil ($8.0 billion in 2018; down 13.6 percent from 2017), textiles and apparel ($1.2 billion; up 18.4 percent), minerals and metals ($728 million; down 12.3 percent), transportation equipment ($697 million; down 47.4 percent), agricultural products ($597 million, up 8.0 percent), and chemicals and related products ($486 million, up 51.9 percent).

## 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 (CVD) law was, in effect, the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the CVD 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 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 2019, USTR and E&C staff have addressed 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. Accessible to the public through the SEO website, it 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 through E&C website. 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 2019, over 100 trade remedy actions involving exports from the United States were closely monitored, notable examples of which include: 1) (AD) China's separate investigations of ethylene propylene non-corrugated diene rubber, polyphenylene sulfide, n-propanol, and m-cresol; Australia's investigation of high density polyethylene; and India's separate investigations of flat-rolled products of stainless steel, coated/plated tin mill flat rolled steel products, and polystyrene; 2) (CVD) China's investigation of n-propanol, Peru's investigation of corn, and Colombia's investigation of ethanol; and 3) (Safeguards) Panama's investigation of pork, Turkey's investigation of certain steel products, and the European Union's investigation of certain steel products.

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 to the public through the WTO website.

**Disputes under Free Trade Agreements**

*NAFTA: United States – Certain Measures on Aluminum and Steel Products (Canada)*

On June 1, 2018, Canada requested NAFTA Chapter 20 consultations with respect to duties on steel and aluminum products imposed by the United States under Section 232 of the Trade Expansion Act of 1962, as amended. On May 17, 2019, Canada and the United States issued a joint statement expressing their agreement to eliminate all tariffs the United States imposed under Section 232 on imports of aluminum and steel products from Canada and all tariffs Canada imposed in retaliation for the Section 232 action taken by the United States, resolving this dispute.

*NAFTA: United States – Certain Measures on Aluminum and Steel Products (Mexico)*

On June 7, 2018, Mexico requested NAFTA Chapter 20 consultations with respect to duties on steel and aluminum products imposed by the United States under Section 232 of the Trade Expansion Act of 1962, as amended. On May 17, 2019, Mexico and the United States issued a joint statement expressing their agreement to eliminate all tariffs the United States imposed under Section 232 on imports of aluminum and steel products from Mexico and all tariffs Mexico imposed in retaliation for the Section 232 action taken by the United States, resolving this dispute.

## 4. 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.

**2019 Special 301 Review Results**

On April 25, 2019, USTR announced the results of the 2019 Special 301 Review. The 2019 Special 301 Report was the result of stakeholder input and interagency consultation.

USTR requested written submissions from the public through a notice published in the *Federal Register* on December 28, 2019, Docket Number USTR-2018-0037). In addition, on February 27, 2019, 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, and nongovernmental organizations. USTR posted the transcript of the Special 301 public hearing on its website 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 2019 review cycle and post hearing comment period drew submissions from 48 non-government stakeholders and 25 trading partner governments. The submissions that USTR received are available to the public online.

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 30 years, including in Australia, Israel, Italy, Japan, the Philippines, Qatar, Korea, Spain, Taiwan, and Uruguay.

Considerable concerns still remain. In 2019, 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 PWL and 25 countries on the WL. Several countries, including Chile, China, India, Indonesia, Thailand, and Turkey, have been listed every year since the Report's inception. The 2019 listings were as follows:

**Priority Watch List:** Algeria, Argentina, Chile, China, India, Indonesia, Kuwait, Russia, Saudi Arabia, Ukraine, and Venezuela.

**Watch List:** Barbados, Bolivia, Brazil, Canada, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Greece, Guatemala, Jamaica, Lebanon, Mexico, Pakistan, Paraguay, Peru, Romania, Switzerland, Thailand, Turkey, Turkmenistan, the United Arab Emirates, 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 2019 report, USTR announced it would conduct an OCR of Malaysia, which was not listed in the 2019 Special 301 Report.

USTR also conducts an OCR focused on prominent and illustrative examples of online and physical markets in which pirated or counterfeit products and services reportedly are available or that facilitate substantial

piracy and counterfeiting. 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. Since publication of the first NML, 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 job creation, economic development, and many other benefits that adequate and effective IP protection and enforcement support. The Special 301 Report and NML 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 NML, and USTR's overall IP efforts can be found online.

## 5. 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.

USTR addresses these issues in its annual National Trade Estimate Report. This approach allows USTR to describe, in one comprehensive report, all of the overlapping barriers concerning telecommunications services and goods, along with related digital trade issues.

In its 2019 Section 1377 Review, USTR focused on issues related to: limits on foreign investment, barriers to competition and licensing issues, international termination rates, satellite services, telecommunications equipment trade, and local content requirements.

## 6. Antidumping Actions

Under the U.S. antidumping law, duties are imposed on imported merchandise when the U.S. Department of Commerce (Commerce) determines that the merchandise is being dumped (sold at "less than fair value") and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the Trade Agreements Act of l979, the Trade and Tariff Act of 1984, the Trade and Competiveness Act of 1988, the 1994 Uruguay Round Agreements Act, and the Trade Facilitation and Trade Enforcement Act of 2015.

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, Commerce will initiate an antidumping investigation. In special circumstances, 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, Commerce will make preliminary and final determinations concerning the allegedly dumped sales into the U.S. market. If 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 Commerce's preliminary determination is negative, there is no suspension of liquidation of entries. In either scenario, Commerce will complete its investigation and issue a final determination.

If Commerce's final determination regarding dumping is negative, the investigation is terminated and no duties are imposed. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, "by reason of" the dumped imports, then 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, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930, as amended. 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, final determinations may be reviewed by a binational panel established under NAFTA or USMCA.

The United States initiated 33 antidumping investigations in 2019 and imposed 30 antidumping orders.

## 7. 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 United States International Trade Commission (USITC) and the U.S. Department of Commerce (Commerce) jointly administer the CVD law, and the U.S. Department of Homeland Security 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 17 CVD investigations and imposed 20 new CVD orders in 2019.

## 8. 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 entry into the United States, 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, or both. A limited exclusion order covers only certain infringing imports from particular sources, namely some or all of the parties who are respondents in the proceeding. A general exclusion order, on the other hand, covers certain infringing products from all sources. Cease and desist orders are generally issued when, with respect to the imported infringing products, the respondents maintain commercially significant inventories in the United States or have significant domestic operations that could undercut the remedy provided by an exclusion order. 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 and forfeiture 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: (1) public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. 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. The Department of Homeland Security U.S. Customs and Border Protection enforces USITC exclusion and seizure orders.

If the USITC issues an affirmative determination and concomitant remedial order(s), it transmits the determination, order(s), and the record upon which the determination is based 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 determination and order(s) become final. If the

President or the USTR disapproves a determination before the end of the 60-day review period, the determination and order(s) have no force or effect as of the date the President or the USTR notifies the USITC. If the President or the USTR formally approves the determination before the end of the 60-day review period, the determination and order(s) become final on the date that the President or the USTR notifies the USITC.

During 2019, the USITC instituted 47 new Section 337 investigations and commenced 12 ancillary proceedings. The USITC also issued affirmative determinations and remedial orders in the following 14 investigations in calendar year 2019: *Certain Magnetic Tape Cartridges and Components Thereof*, *337-TA-1058*; *Certain Industrial Automation Systems and Components Thereof*, 337-TA-1074; *Certain Magnetic Data Storage Tapes and Cartridges Containing The Same*, 337-TA-1076; *Certain Mounting Apparatuses for Holding Portable Electronic Devices and Components Thereof*, 337-TA-1086; *Certain Road Construction Machines and Components Thereof*, 337-TA-1088; *Certain LED Lighting Devices, LED Power Supplies, and Components Thereof*, 337-TA-1081; *Certain Full-Capture Arrow Rests and Components Thereof*, 337-TA-1117; *Certain Road Milling Machines and Components Thereof*, 337-TA-1067; *Certain Carbon Spine Board Cervical Collar and Various Medical Training Manikin Devices (Remand)*, 337-TA-1008; *Certain LED Lighting Devices and Components Thereof*, 337-TA-1107; *Certain Pickup Truck Folding Bed Cover Systems and Components Thereof*; 337-TA-1143; *Certain Earpiece Devices and Components Thereof*, 337-TA-1121; *Certain Water Filters and Components Thereof*, 337-TA-1126; *Certain Microfluidic Devices*, 337-TA-1068. In addition, Presidential reviews of three determinations from 2018 were completed in 2019: *Certain Insulated Beverage Containers*, 337-TA-1084; *Certain Fuel Pump Assemblies Having Vapor Separators*, 337-TA-1101; *Certain Self-Anchoring Beverage Containers*, 337-TA-1092. All determinations and orders became final after Presidential review. Presidential review of the last investigation, *Microfluidic Devices*, completed in early 2020.

# III. 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 $2.3 trillion in 2018, comprising 11.3 percent of U.S. GDP. If the U.S. 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 58,000 jobs in 2019 (December 2018 to December 2019), after adding 264,000 jobs in 2018. Accordingly, the unemployment rate for manufacturing workers was under 4.0 percent for all of 2019 and ranges between 2.3 percent in May to 3.4 percent in September. Average hourly earnings of manufacturing employees were $27.70 in 2019.

Manufacturing is a key driver of U.S. exports. U.S. manufacturing exports totaled $1.37 trillion in 2019, and accounted for 83 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 an estimated 49 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 2019, the Office of the United States Trade Representative (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.

### United States-Mexico-Canada Agreement

USTR finalized the United States-Mexico-Canada Agreement (USMCA) in 2019, updating the provisions of the North American Free Trade Agreement (NAFTA) to reflect 21st century standards and rebalance the benefits of the deal. The USMCA maintains the NAFTA duty-free treatment for originating industrial goods; expands market access opportunities for U.S. manufactured goods; and strengthens disciplines to address non-tariff barriers that constrain U.S. exports to Canada and Mexico. The USMCA also updates and strengthens rules of origin, as necessary, to ensure that the benefits of the agreement go to products genuinely made in the United States and North America, and to incentivize production in North America as well as specifically in the United States. In addition, the Parties to the USMCA seek to achieve greater regulatory compatibility in key manufactured goods sectors, including automobiles, pharmaceuticals, medical devices, and chemicals to reduce burdens associated with differences in regulation between the Parties.

### Bilateral Market Access Barriers

Over 2019, USTR continued 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, free trade agreement (FTA) meetings, and various bilateral trade policy initiatives and activities. Among such activities in 2019 were efforts to address: India's barriers to U.S. manufactured goods exports, including medical devices and high-technology products; barriers to U.S. automobile exports in Southeast Asia; and, barriers created by a range of China's industrial policies, such as "Made in China 2025," which is 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 certain 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 continues to seek opportunities to work with like-minded trading partners to build international consensus on the challenges of excess capacity, including in fora such as the Global Forum on Steel Excess Capacity and the Organization for Economic Cooperation and Development (OECD) Steel Committee. While actively participating in the work of these fora, USTR has made clear to partners that the United States will not sit idly by while the effects of the excess capacity crisis imperil industries critical to our national security.

**Strong Enforcement**

Throughout all of 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. (*For further information see Chapter II: Trade Enforcement Activities.*)

# B. Agriculture and Trade

The United States is the world's largest exporter and importer of food and agricultural products. U.S. agriculture has posted an annual trade surplus for well over 50 years. Agricultural exports support more than an estimated one million American jobs, with roughly 70 percent of these jobs in the non-farm sector, such as in processing and agricultural manufacturing. In 2019, agricultural domestic exports reached nearly $137 billion and created an estimated $178 billion in additional economic activity, for a total economic output of $315 billion.

The United States is among the world's top producers of food and agricultural products and is widely recognized as one of the most efficient. In 2019, low commodity prices and unfavorable weather, combined with disruptions to export markets caused by unjustified, retaliatory tariffs on U.S. farm goods, caused difficult financial conditions for many U.S. agricultural producers. With 20 percent of farm income derived from exports, opening export markets and ensuring that other countries abide by international trade obligations remains a top priority for the Trump Administration.

## 1. Opening Export Markets for American Agriculture

Successful expansion of market opportunities abroad for U.S. food and agricultural products requires close coordination among a number of government agencies. USTR, through the Trade Policy Staff Committee (TPSC), leads the U.S. Government's approach to develop and implement successful trade policy. U.S. regulatory agencies such as the U.S. Food and Drug Administration (FDA); U.S. Environmental Protection

Agency (EPA); the U.S. Department of Commerce's National Oceanic and Atmospheric Administration (NOAA); and the U.S. Department of Agriculture's Food Safety and Inspection Service, Animal and Plant Health Inspection Service, and Agricultural Marketing Service work together to ensure that American food and agricultural products are among the safest in the world. USTR works with the U.S. Department of Agriculture (USDA) Foreign Agricultural Service (FAS), the U.S. Department of State, and U.S. embassies around the world to engage foreign governments to implement policies and regulations that are supported by science, are minimally trade distorting, and are consistent with international trade obligations.

Significant accomplishments opening and maintaining export markets in 2019 include:

**Agreement with South Korea on Market Access for U.S. Rice:** On December 30, 2019, the United States signed an agreement with South Korea on market access for U.S. rice, after five years of negotiations. The Agreement entered into force on January 1, 2020, and establishes an annual country specific quota (CSQ) for U.S. rice of 132,304 metric tons, with disciplines on administration of the CSQ to ensure transparency and predictability for U.S. rice exporters. The Agreement provides U.S. rice producers with the largest volume of guaranteed rice market access since South Korea's accession to the WTO, with an annual value of approximately $110 million.

**Ensuring Continuity of Processed Food and Beverage Trade with Saudi Arabia:** In December 2019, following successful U.S. engagement, the Kingdom of Saudi Arabia withdrew a measure requiring mandatory sugar limits for processed food and beverage products, which would have severely affected U.S. exports to the Kingdom. The decision follows an earlier confirmation by Saudi Arabia that its new salt and food labeling regulations remain voluntary. Throughout 2019, the United States worked with a coalition of trading partners to challenge the basis of these measures. The United States exports over $400 million of processed food and beverage products to Saudi Arabia annually.

**China Lifts Ban on U.S. Poultry Imports:** On November 14, 2019, China reopened its market to U.S. poultry meat, partially eliminating the ban it had imposed in late 2014. By the end of 2019, the General Administration of Customs of the People's Republic of China (GACC) had listed 349 U.S. poultry meat facilities as eligible to export to China. U.S. exports of poultry meat products to China were valued at over $500 million in 2013, the year prior to imposition of the ban. USDA estimates U.S. exports of poultry have the potential to reach or exceed $1 billion annually.

**China Market Officially Opens for U.S. Rice:** In December 2018, China's Customs Office announced that 25 U.S. rice processing facilities were approved, under the import protocol signed between the United States and China in July 2017, to export to China. In 2019, China had registered a total of 32 U.S. rice facilities as approved to export to China. As the top global importer and consumer of rice, China is projected to import 4 million tons in 2019/2020. USDA estimates that annual U.S. rice exports to China could reach $300 million in the future.

**Brazil Implements WTO Wheat Tariff Rate Quota:** On November 12, 2019, after substantial high-level engagement, including by President Trump, Brazil implemented a duty-free tariff rate quota (TRQ) for 750,000 metric tons of wheat. The United States has long pressed Brazil to implement its WTO commitment, in order to enable U.S. wheat exporters to compete on a level playing field with imports of wheat from Argentina, which enters Brazil duty-free under the Southern Common Market (MERCOSUR) customs union. Prior to implementation of the TRQ, U.S. wheat was typically subject to a ten percent MERCOSUR common external tariff. U.S. industry expects that implementation of the TRQ will result in approximately $180 million worth of additional wheat exports to Brazil annually.

**Iraq Reopens Its Market to U.S. Poultry and Eggs:** In September 2019, Iraq's Ministerial Council removed its ban on table eggs and poultry parts. U.S. poultry exports to Iraq were valued at $27 million in 2019.

**U.S. Beef Gains Full Access to Japan:** On May 17, 2019, the United States and Japan agreed on new terms and conditions that eliminate Japan's longstanding age-based Bovine Spongiform Encephalopathy (BSE) restrictions on U.S. beef exports, paving the way for expanded sales to the United States' largest global beef market. USDA estimates that the expanded access could increase U.S. beef and beef products exports to Japan by up to $200 million annually.

**Guatemala to Allow for Corrections of Certificates of Origin:** Following consultations with USTR and USDA in the spring of 2019 on origin certification procedures, Guatemalan customs implemented a new policy to allow for multiple corrections to the Dominican Republic-Central American Free Trade Agreement (CAFTA-DR) certificates of origin. This will help expedite the clearance of imported U.S. products, saving importers tens of thousands of dollars and making the certification process more transparent.

**Guatemala Market Now Open for U.S. Table Eggs:** In September 2019, Guatemala's Ministry of Agriculture reached agreement with USTR and USDA on a protocol for imports of U.S. table eggs. On October 18, 2019, Guatemala issued a resolution implementing the protocol, opening the market for U.S. exports.

**Honduran Port Opens for Cheese Imports:** Following years of efforts by U.S. Government agencies, Honduras published an official notice in September 2019 adding Roatan to the list of ports staffed with food safety inspectors and thus eligible to import dairy products. USDA estimates that dairy product exports to the island of Roatan will grow over the next five years to more than $1 million.

**Central American FTA Partners to Allow U.S.-Approved Food Additives:** At the July 2019 CAFTA-DR committee meetings, Central American governments agreed to allow FDA food additives be listed alongside Codex Alimentarius Commission (Codex) additives in the Central American Technical Regulation (RTCA). This will facilitate exports of U.S. agricultural products to the region. Moreover, industry will no longer need to request FDA-approved additives be added to the RTCA, saving time and money.

**Tunisia Opens to U.S. Beef, Poultry, and Eggs:** In April 2019, the United States and Tunisia finalized U.S. export certificates to allow imports of U.S. beef, poultry, and egg products into Tunisia. USDA's initial estimates are that Tunisia will import annually $5 to $10 million of U.S. beef, poultry, and egg products.

**U.S. Soybeans for Biofuel Use in the European Union:** In a January 29, 2019, decision, the European Commission recognized the sustainability of U.S. soybeans for use in biofuels under the European Union (EU) Renewable Energy Directive, which sets out environmental criteria. As a joint effort with the U.S. Soybean Export Council, the Administration prioritized the resolution of this issue under the United States-European Union Executive Working Group initiative.

**U.S. High Quality Beef Access Agreement Signed:** On August 2, 2019, USTR signed an agreement with the EU that will improve access for U.S. high quality beef into the EU. Starting January 1, 2020, the EU implemented an annual U.S.-specific portion of the tariff-rate quota. The U.S. allocation will start at 18,500 metric tons and increase to 35,000 metric tons in year seven of the agreement. Value of beef shipments in year seven are estimated at $420 million, compared to about $150 million in 2018.

**Exports of U.S. Dairy to Chile:** In January 2019, with the engagement of USTR and USDA, Chile issued a decision not to impose safeguard tariffs on imported milk powder worth over $21 million and certain cheeses worth over $34.4 million.

**South African Poultry TRQ Rules Improved:** USTR and USDA worked with South Africa to clarify and improve proposed amendments to its administration of TRQ allocations for imports of U.S. bone-in chicken. As a result, importers were able to navigate the improved import requirements, and the United States filled the quota for the second consecutive quota year, ending March 2019, resulting in an increase of the quota to 68,000 metric tons for the 2019/2020 quota year.

**Expanded Access for Apples to South Africa:** In March 2019, South Africa accepted U.S. proposals to lift its remaining restrictions on U.S. apples from Washington, Oregon, and Idaho, thus opening the market to U.S. apples from any state.

**Kenya Approves Protocol Permitting the Import of U.S. Wheat from the Pacific Northwest:** Engagement by USTR and USDA throughout 2019 resulted in a draft certification protocol to allow for the export of wheat grown in Washington, Oregon, and Idaho to Kenya. Kenya had previously banned wheat from the Pacific Northwest (PNW) over concerns with flag smut fungus. The protocol was approved and signed by Kenya in January 2020, significantly expanding access for wheat exports from any region of the United States to a roughly $420 million dollar market. U.S. wheat exports to Kenya from non-PNW states were valued at $27 million in 2019.

**Thailand Rescinds Ban on Glyphosate:** As a result of strong advocacy on the part of the United States and other third countries, as well as Thai domestic stakeholders, in November 2019, Thailand's National Hazardous Substances Committee (NHSC) reversed an earlier 2019 decision to classify glyphosate as a banned substance for domestic use. Such a ban would have jeopardized over $600 million in U.S. soybean, wheat, and fruit exports. With NHSC's reversal of the ban, glyphosate returns to being classified as a controlled substance, and Thailand will continue to follow Codex tolerance levels for glyphosate residues in food.

**Vietnam Opens Market to U.S. Oranges:** In October 2019, the United States and Vietnam reached agreement on the phytosanitary conditions for U.S. oranges to be imported into Vietnam. The value of U.S. orange exports to Vietnam prior to its halting U.S. access in 2016 ranged from $3 million to $10 million annually.

**Vietnam Opens Market to U.S. Blueberries:** In February 2019, after multiple USTR and USDA trade policy meetings and technical exchanges, the United States and Vietnam reached agreement on the phytosanitary conditions for U.S. blueberries to be imported into Vietnam. This is the first time U.S. exporters have been able to ship blueberries to Vietnam.

**Vietnam Approves U.S. Meat Processing Facilities:** In September 2019, Vietnam approved eight additional meat and poultry processing facilities to export to Vietnam. USTR continues to press Vietnam, consistent with its 2006 equivalence agreement for meat and poultry, to allow imports without a lengthy and onerous registration process for individual facilities. In 2019, U.S. exports of meat, poultry, and egg products to Vietnam totaled approximately $237 million.

**Vietnam Approves All Outstanding U.S. Seafood Facilities:** In 2019, Vietnam's Department of Animal Health (DAH) approved the registration of 40 U.S. seafood facilities to export to Vietnam. These were the first approvals in over two years. The primary U.S. seafood exports to Vietnam include lobster, salmon, squid, and shrimp, totaling approximately $80 million in 2019.

**Vietnam Delays Glyphosate Ban**: On October 18, 2019, Vietnam confirmed that its ban on glyphosate, which went into effect on June 10, 2019, will be postponed for one year to allow for review of more scientific evidence. In addition, a transition period, which allows for domestic use, will now be extended to June 10, 2021.

**Vietnam Approves Biotechnology Products:** Vietnam approved eight biotechnology products in 2019, including four soybean biotechnology products, two corn biotechnology products and two alfalfa biotechnology products. The United States continues to work with Vietnam to facilitate the approval of the remaining 17 biotechnology product applications under review.

**Morocco Removes Barriers to U.S. Agriculture Exports:** The United States and Morocco concluded negotiations in 2019 on export certificates for U.S. processed eggs and bovine genetics, opening Morocco's market for these products. The United States and Morocco also reached agreement on additional wheat tenders through the year, to improve U.S market access under the United States-Morocco FTA TRQs. Following negotiations in 2018, Morocco opened its market to U.S. poultry and beef. Initial estimates project that Morocco will be an $80 million market for U.S. beef and a $10 million market for U.S. poultry.

## 2. Negotiating Trade Agreements for American Agriculture

### United States–Mexico–Canada Agreement

On November 30, 2018, President Trump signed the United States–Mexico–Canada Agreement (USMCA), thereby establishing modernized and rebalanced rules of trade for North America that far surpass the NAFTA, set higher standards than the Trans-Pacific Partnership, and will better serve the interests of U.S. farmers, ranchers, businesses, and workers. On January 29, 2020, President Trump signed legislation implementing the United States-Mexico-Canada Agreement, thereby fulfilling his promise to the American people to renegotiate the NAFTA.

*Agriculture*

Under the USMCA, U.S. dairy products gain significant new access into the Canadian market. In addition, U.S. poultry and egg products gain improved access into Canada. In exchange, the United States will provide new access to Canada for dairy products, peanuts, processed peanut products, and a limited amount of sugar and sugar-containing products. The USMCA also includes strong rules for administration of TRQs. All agricultural products that enter duty-free under the NAFTA will remain duty-free under the USMCA.

The USMCA requires Canada to change certain aspects of its milk pricing policy, which decreased exports of U.S. dairy ingredients to Canada and increased Canada's exports of skim milk powder and other products to the world. The United States will carefully monitor Canada's implementation of the USMCA commitments. The USMCA contains other obligations to help ensure the Parties avoid trade-distorting policies. Canada will change its system for grading U.S. wheat to eliminate discriminatory treatment. Mexico agreed not to restrict market access of U.S. cheese due to the use of certain names. The USMCA contains new and important provisions to support agricultural biotechnology in 21st century agriculture.

*Sanitary and Phytosanitary Measures*

The USMCA contains new and enforceable commitments that elaborate and expand on WTO sanitary and phytosanitary (SPS) obligations. The Parties will maintain their sovereign right to protect human, animal, and plant life or health, while also committing to avoid unnecessary barriers to trade. The Parties agreed

to increase transparency in the development and implementation of SPS measures, advance science-based decision making, and work together to enhance compatibility of SPS measures. Provisions enhance the processes and bases for conducting SPS audits; making equivalency and regionalization decisions; ensuring certification requirements are tied to risk; and enhancing information exchange and cooperation. The SPS Chapter also creates a new mechanism for regulatory agency officials to cooperatively resolve issues.

*(For more information on the United States.-Mexico-Canada Trade Agreement, see Section I.A.1)*

**United States–Japan Trade Agreement**

On October 7, 2019, the United States and Japan signed the United States–Japan Trade Agreement, which entered into force on January 1, 2020. The Agreement will provide America's farmers and ranchers enhanced market access in the United States' third largest agricultural export market. This Agreement will enable American producers to compete more effectively with countries that currently have preferential tariffs in the Japanese market. In the United States–Japan Trade Agreement, Japan has committed to provide substantial market access to American food and agricultural products by eliminating tariffs, enacting meaningful tariff reductions, or allowing a specific quantity of imports at a low duty (generally zero). Importantly, the tariff treatment for the products covered in this agreement will match the tariffs that Japan provides preferentially to countries in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. Out of the $14.1 billion in U.S. food and agricultural products imported by Japan in 2018, $5.2 billion were already duty free. Under this first-stage initial tariff agreement, Japan will eliminate or reduce tariffs on an additional $7.2 billion of U.S. food and agricultural products. Over 90 percent of U.S. food and agricultural imports into Japan will either be duty free or receive preferential tariff access once the Agreement is implemented.

*(For more information on the United States.-Japan Trade Agreement, see Section I. A. 2)*

**Economic and Trade Agreement between the United States of America and The People's Republic of China**

On January 15, 2020, the United States and China signed an historic and enforceable agreement on a Phase One trade deal that, in part, further opens China's food and agriculture market to American products. The Phase One agreement addresses structural barriers to trade and will support a dramatic expansion of U.S. food, agriculture, and seafood product exports, increase American farm and fishery income, generate more rural economic activity, and promote job growth. China will purchase and import on average at least $40 billion of U.S. food, agricultural, and seafood products annually for a total of at least $80 billion over the next two years. Products will cover the full range of U.S. food, agricultural, and seafood products. On top of that, China will strive to import an additional $5 billion per year over the next two years.

Structural changes in the Agreement include improvements to China's agricultural biotechnology review process, tariff rate quota administration for grains, and a range of sanitary and phytosanitary measures affecting U.S. exports of beef, poultry, pork, dairy, rice, seafood, fruits and vegetables, animal feed, and pet food.

## 3. Bilateral and Regional Activities

**United States–Australia Free Trade Agreement**

In 2019, the United States and Australia continued to work together under the United States–Australia Free Trade Agreement (AUSFTA) to make progress on the U.S. requests for pork, turkey meat, and other

agricultural products. For pork, Australia asked for additional research on porcine reproductive and respiratory syndrome (PRRS), and both countries reviewed the World Organization for Animal Health (OIE) PRRS guidance. Australia continued reviewing data on apples and turkey meat. In 2020, the United States will continue to work with Australia to make progress on the U.S. requests for pork, turkey meat, and other agricultural products.

Australia's review of access for U.S. fresh and frozen beef was completed in December 2019. USDA continues to work with Australia to complete that process and give U.S. beef suppliers full access to the market.

**Dominican Republic–Central American Free Trade Agreement**

Agricultural export and investment opportunities with Central America and the Dominican Republic have continued to grow under the Dominican Republic–Central American Free Trade Agreement (CAFTA-DR). All of the CAFTA-DR partners have committed to strengthening trade facilitation, regional supply chains, and implementation of the Agreement. Under the CAFTA-DR, exports of import-sensitive agricultural products are imported under TRQs. These quotas will continue to increase annually until all tariffs are eliminated by no later than 2025.

In November 2019, pursuant to the CAFTA-DR, the Parties established the Agriculture Review Commission (ARC) to review implementation and operation of the Agreement as it relates to trade in agricultural goods. During 2020, the ARC will exchange data and conduct a technical review of the impact of the agreement on trade between the members. The United States will continue to press for progress on SPS and TBT barriers and address cumbersome regulatory requirements to trade to facilitate U.S. market access in Central America and the Dominican Republic.

Total 2019 agricultural exports to the CAFTA-DR region were $4.9 billion, up nearly 2 percent over 2018.

**United States–Egypt Trade and Investment Framework Agreement**

At the United States–Egypt TIFA follow-up session in April 2019, the United States raised agricultural issues related to Egyptian imports of U.S. poultry; Egyptian standards for animal drug residues in meat products; approvals for U.S. varieties of seed potatoes; and, Egypt's tariffs on U.S. apples, pears, tree nuts, and pet food. During the meeting, Egypt and the United States discussed Egypt's progress in organizing a new food safety authority under legislation passed in 2017. U.S. food safety regulatory agencies and USTR have begun discussions with Egypt on ways to ensure that regulations for food produced and imported in Egypt utilize scientific, risk-based approaches, and adhere to international standards and guidelines.

**United States–Iraq Trade and Investment Framework Agreement**

At the United States–Iraq TIFA Meeting on June 14, 2019, the United States discussed issues related to Iraq's imports of U.S. agricultural products, including poultry, wheat and rice. The United States raised Iraq's proposed ban on poultry imports, as well as the high levels of tariffs imposed by Iraq on poultry. Iraq and the United States also discussed Iraq's recent purchases of rice, and ways to improve the tendering process for U.S. wheat and rice.

**United States–Israel Agreement on Trade in Agricultural Products**

The United States–Israel FTA entered into force in 1985 and was the United States' first FTA. It continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency.

The FTA's Joint Committee (JC) is the central oversight body for the FTA. At the February 2016 JC meeting, Israel proposed resuming negotiations on a permanent successor agreement to the current United States-Israel Agreement on Trade in Agricultural Products (ATAP). The first round of negotiations was held in November 2018 and a second round of negotiations took place in March 2019. The United States and Israel will continue these discussions in 2020.

In 2019, estimated U.S. agricultural domestic exports to Israel totaled $626 million. Top agricultural product exports were soybean meal ($50 million), soybeans ($49 million), distiller's dried grains with solubles (DDGS) ($47 million), almonds ($45 million), pistachios ($42 million), and walnuts ($32 million).

**United States–Korea Free Trade Agreement**

The United States–Korea Free Trade Agreement (KORUS) has been an economic boon to U.S. agricultural exporters since it entered into force in March 2012. U.S. exports of agricultural products to Korea totaled $7.7 billion in 2019, making Korea our fifth largest agricultural export market. Exports of U.S. beef to Korea have soared from $539 million in 2012, when KORUS entered into force, to a record $1.8 billion worth of exports in 2019, making Korea the second largest export destination for U.S. beef and beef products, behind only Japan. However, various issues impede the export of other U.S. agricultural products, particularly for exports of apples, pears, and other horticultural products. The United States engages extensively with Korea on a regular bilateral basis through the WTO, and in annual meetings of the KORUS SPS and Agriculture committees. The two committees met most recently in Sejong City, Korea in December 2019, to discuss biotechnology approvals, pesticide registration, and SPS-related market access issues.

**United States–Morocco Free Trade Agreement**

The United States–Morocco FTA Joint Committee and the Agriculture and SPS subcommittee meetings were held in June and July 2019. In 2019, Morocco and the United States agreed to specific actions to improve access for U.S. wheat by increasing tenders and improving the administration of the TRQ. In follow up to the meetings, Morocco also finalized certificates for bovine genetics and U.S. egg products, and held technical discussions on food safety issues. The recent engagement with Morocco follows a number of close engagements with Morocco since 2017, when Morocco signaled its willingness to resolve agricultural market access issues that had been outstanding since the FTA entered into force on January 1, 2006.

**United States–Panama Trade Promotion Agreement**

The United States–Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012. Under the TPA, 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 ninth round of tariff reductions took place on January 1, 2020. The United States and Panama continued to work cooperatively during 2019 to

continue to implement the provisions of the TPA and to address issues of concern that arose during the year. U.S. agricultural exports to Panama in 2019 were $763 million in 2019, up 5 percent from 2018.

**United States–Peru Free Trade Agreement**

The United States–Peru Free Trade Agreement (PTPA) entered into force in February 2009. More than two-thirds of current U.S. farm exports became duty-free immediately after the Agreement went into force. Tariffs on most U.S. farm products will be phased out within 15 years, with all tariffs eliminated in 17 years. Issues impacting bilateral trade are addressed in the Agricultural and SPS Committees that were established under the PTPA, as well as in the PTPA Free Trade Commission, as needed. The SPS Committee most recently convened in April 2019. Among other issues affecting agricultural trade, the United States continued to raise concerns with Peru's longstanding moratorium on the use of biotechnology for cultivation in Peru and offered technical assistance to develop a science-based regulatory framework for biotechnology as the moratorium nears its conclusion in 2021. U.S. exports of agricultural products to Peru were $1.04 billion in 2019.

**United States–Tunisia Trade and Investment Framework Agreement**

During the May 16, 2019 meeting of the United States–Tunisia Trade and Investment Council, Tunisia and the United States discussed Tunisia's recent approval of health certificates for U.S. beef, poultry, and egg products in April 2019. The United States also raised issues related to Tunisia's new food safety law, agricultural biotechnology, and wheat grading standards.

## 4. Cross-Cutting SPS Initiatives and Issues

U.S. agricultural productivity and efficiency, as measured by agricultural total factor productivity, is among the highest in the world. This productivity is, in large part, determined by how well producers manage current technology. Continued adoption of technological progress by U.S. agricultural producers is, therefore, a vital element in maintaining U.S. global competitiveness. Accordingly, a cornerstone of U.S. trade policy is to promote the adoption by U.S. trading partners of transparent, predictable, and risk-appropriate regulatory approaches that are based on science. This section describes initiatives undertaken in several international and regional fora to advance this objective.

**WTO Sanitary and Phytosanitary Committee**

The WTO Sanitary and Phytosanitary (SPS) Committee provides a forum for Members to discuss specific trade concerns (STCs); to share experiences on the implementation of the WTO SPS Agreement; and to develop initiatives and recommendations to strengthen the implementation and operation of the WTO SPS Agreement. The Committee meetings also provide the opportunity for informal side discussions among Members to socialize new ideas and gain support for U.S. positions. Every four years, the WTO SPS Committee undertakes a comprehensive review of the operation and implementation of the WTO SPS Agreement and develops recommendations to strengthen its operation and implementation in specific ways. These reviews can provide an important opportunity to step back from the day-to-day specific trade irritants and to reflect collectively on more systemic issues.

In 2019, the United States deepened international discussions on trade concerns of U.S. agricultural producers related to missing and withdrawn pesticide maximum residue levels, enhancing implementation and recognition of regionalization consistent with international standards, and increasing farmers' access to tools and technologies needed to support sustainable agriculture. In 2020, the WTO SPS Committee plans to conclude its Fifth Review of the operation and implementation of the WTO SPS Agreement. The

United States has worked within several coalitions to advance U.S. agricultural trade priorities with recommendations to strengthen Members' implementation of the WTO SPS Agreement in these areas.

**Codex Alimentarius Commission**

The United States has been a strong supporter of Codex Alimentarius Commission (Codex), the international food safety standard-setting body under its parent organizations, the United Nations Food and Agriculture Organization (FAO) and World Health Organization (WHO), since the organization's inception in 1963. Throughout 2019, the United States maintained its leadership position in Codex by ensuring that Codex maintain its core principle to base its decisions on science, and defending the autonomy of Codex against efforts to redirect the work of Codex in a manner inconsistent with the Codex dual mandate of protecting consumers and ensuring fair practices in food trade.

**World Health Organization**

Over the course of 2019, the United States made significant progress in engaging with the World Health Organization (WHO) and its Members to ensure that public health guidance is science and evidence-based. For example, regarding efforts to combat non-communicable diseases, the United States continues to press for WHO guidance and recommendations to be consistent with U.S. priority elements, including the importance of engagement with the private sector to solve public health challenges, and ensuring that recommended actions to address these challenges are evidence-based.

## 5. Agriculture in the World Trade Organization

**Committee on Agriculture**

The WTO Committee on Agriculture (CoA) oversees the implementation of the WTO Agreement on Agriculture (AoA) and provides a forum for Members to consult on matters related to provisions of the AoA. In many cases, the CoA resolves problems of implementation, permitting Members to avoid invoking dispute settlement procedures. The CoA 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 CoA 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 AoA, Members agreed to provide notifications of progress in meeting their commitments in agriculture, and the CoA has met frequently to review the notifications and monitor activities of Members to ensure that trading partners honor their commitments.

In 2019, the CoA held three formal meetings, in February, June, and October, 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 2019, Members submitted 390 notifications, and the United States asked 131 questions (or sets of questions) to other Members. 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 policies of other Members, including Australia, Botswana, Brazil, China, Ecuador, India, Israel, Japan, Korea, the Kyrgyz Republic, Malaysia, Mongolia,

Thailand, and Turkey. In addition, the United States used the review process to question Member's policies including Canada's dairy and wine policies; India's export subsidies, dairy policies, import duty protections and quantitative restrictions on pulses; China's rice policies; Ghana's barriers to importation of poultry products; the Russian Federation's railway subsidies for exported grain; and Pakistan's export subsidies for wheat.

The United States took steps to improve the transparency of Members' agricultural policies affecting trade, by submitting in February 2019, jointly with Australia and Canada, its third CoA counter notification addressing India's market price support for pulses. Several Members including the European Union, New Zealand, Paraguay, and Ukraine welcomed the counter notification and robust discussion on India's policies. These counter notifications spurred interventions by numerous Members and allowed for informative discussions regarding domestic support policies and commitments under the AoA. Finally, the United States encouraged countries, including China, Egypt, and India, to bring their domestic support notifications up to date.

During 2019, the CoA addressed a number of other issues related to the implementation of the AoA, including convening the sixth annual dedicated discussion on export competition, as follow-up to the Bali and Nairobi Ministerial Decisions. The United States used this process to question the export credit programs of several countries, including Argentina, China, the EU, Hong Kong, Malaysia, the Russian Federation, Thailand, Uruguay, and Vietnam; to question the agricultural exporting state trading enterprises of China, Pakistan, the Russian Federation, and Thailand; and to seek transparency on the international food programs of China, the EU and Korea. The United States actively participated in the ongoing review of the Bali Decision on Tariff Rate Quota Administration. The United States also engaged in the CoA's discussion of enhancing transparency and the CoA review process.

The United States will continue to make full use of the CoA 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 CoA continues to implement Bali and Nairobi Ministerial Decisions. In addition, the United States will continue to work closely with the CoA Chairperson and Secretariat to find ways to improve the timeliness and completeness of notifications and to increase the effectiveness of the Committee overall. The CoA 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 AoA. The Committee expects to hold regular meetings in March, September and November of 2020.

**Committee on Agriculture, Special Session**

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 AoA. 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. 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, Members did not agree to a Ministerial Declaration or any decision on agriculture due to Members' divergent views. The United States provided important leadership, calling for a reset of the agriculture negotiations in light of the fact that Members' agriculture policies and agricultural trade had changed significantly over the previous 15 years.

In 2019, the United States focused agriculture discussions on efforts to improve transparency and sharing factual information for technical discussions. The Chairperson of the Agriculture Negotiations held formal and informal meetings, including a series of monthly technical meetings, in order to enhance Members' understanding of the relevant issues. While the United States focused its analysis on market access issues, other Members submitted papers on domestic support, export restrictions, and agricultural safeguards. Members also engaged in technical discussions on special safeguard mechanisms, cotton trade, and public stockholding for food security. The United States continued to urge Members to work together to build a clear and common consensus around issues that farmers face with the use of facts and economic analysis.

Building on the need for improved transparency of Members' agriculture policies, the United States revised a transparency proposal and presented it to the General Council in 2019 with the aim of strengthening the effectiveness of the WTO review process, including with respect to commitments under the AoA. The revised proposal has gained the co-sponsorship of several Members including Argentina, Australia, Canada, Chinese Taipei, Costa Rica, the EU, Japan, and New Zealand.

With the Twelfth Ministerial scheduled for June 2020 in Kazakhstan, a major focus in 2020 will be to continue to enhance notifications and transparency to inform discussions about the problems that face agricultural trade today and to consider new ways forward in negotiations on agriculture.

## 6. Enforcing Trade Agreements for American Agriculture

Enforcement and monitoring cover a broad expanse of activities in support of American agriculture. Every day U.S. Government officials in Washington, D.C. and located around the world work to monitor other countries' compliance with trade obligations. Enforcement work ranges from pursuing dispute settlement at the WTO, working to have individual shipments released, and reviewing and commenting on proposed regulations that could impede trade and advocating for elimination of unfair barriers.

When appropriate, the Trump Administration will pursue formal dispute settlement proceedings in the WTO or under free trade agreements. In 2019, meaningful progress was made on a number of disputes brought by the United States against other countries' unfair trade practices. Pending disputes involving agricultural products include:

- *Canada - Measures Governing the Sale of Wine in Grocery Stores* (DS531)
- *China - Domestic Support for Agricultural Producers* (DS511)
- *China - Tariff Rate Quotas for Certain Agricultural Products* (DS517)
- *European Union - Measures Concerning Meat and Meat Products (Hormones)* (DS26, DS48)
- *European Union - Measures Affecting the Approval and Marketing of Biotechnology Products* (DS291)
- *India - Measures Concerning the Importation of Certain Agricultural Products from the United States* (DS430)
- *Indonesia - Import Restrictions on Horticultural Products, Animals, and Animal Products* (DS455, DS465, and DS478)

*For further information on these and other WTO disputes, see Chapter II.B Section 301 and Chapter IV.H WTO Dispute Settlement Understanding.*

## C. 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 to provide adequate and effective protection and enforcement of U.S. intellectual property (IP) rights.[18] 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.

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.[19] 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 to the Organization for Economic Cooperation and Development (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 right holders originate in the United States). Inappropriate protection of geographical indications, including the lack of transparency and due process in some systems, limits 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 U.S. businesses, including small- and medium-sized enterprises (SMEs). 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 Argentina, Australia, Canada, Chile, China, Colombia, Costa Rica, Ecuador, Egypt, India, Indonesia, Mexico, Moldova, Morocco, Saudi Arabia, Thailand, Ukraine, Uzbekistan, the United Arab Emirates, 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 II.E.4*).

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. China also has engaged in practices that require or pressure technology transfer from U.S. firms. Combined, shipments and goods coming from or through China and Hong Kong in Fiscal Year 2018 accounted for the overwhelming majority (87 percent) of all U.S. Customs and Border Protection (CBP) border seizures of intellectual property rights (IPR) infringing merchandise. Structural impediments to civil and criminal IPR enforcement are also problematic, as are impediments to pharmaceutical innovation.

[18] Intellectual property rights include copyrights, patents, trademarks, and trade secrets.

[19] In 2014 (latest data available), IP-intensive industries directly or indirectly accounted for 45.5 million jobs in the United States, nearly one third of all U.S. employment.

Finally, USTR leads multilateral engagement on IP issues in the World Trade Organization (WTO) through the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council). As discussed in greater detail in Chapter IV.B.5, 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 led a group of like-minded Members in discussing the positive role of IP in promoting innovation at the 2019 WTO TRIPS Council, under the theme: Public-Private Collaborations in Innovation.

**Special 301**

*For a discussion of Special 301, see Chapter II.E.4.*

# D. Promoting Digital Trade

The Internet and other digital technologies play a crucial role in strengthening and supporting firms in every sector of the U.S. economy. In 2019, USTR advanced U.S. digital trade interests 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, which was released concurrently with the release of the annual National Trade Estimate Report in March 2019.

In the United States–Japan Digital Trade Agreement, USTR has replicated the achievements of the Digital Trade Chapter of the United States–Mexico–Canada Agreement. These two agreements include the most ambitious set of digital trade rules in any Free Trade Agreement (FTA), which will make these agreements a model for other bilateral and multilateral efforts moving forward. For example, USTR concluded strong rules ensuring that data can flow freely across borders without onerous and expensive localization requirements; guaranteeing that digital products receive duty-free, non-discriminatory treatment; preventing foreign governments from requiring U.S. firms to disclose proprietary source code and algorithms; and ensuring that Internet platforms will not be held liable for civil, non-intellectual property related harms associated with third-party content.

At the World Trade Organization (WTO), the United States has participated actively in the Joint Statement Initiative on Electronic Commerce (or "digital trade"). In January 2019, the United States and 75 other WTO Members issued a second Joint Statement on the margins of the World Economic Forum confirming their intent to commence negotiations and committing to seek a high-standard outcome with the participation of as many Members as possible. Throughout 2019, the United States and other participating governments engaged in negotiations on the basis of Members' proposals. In December 2019, the United States joined a consensus in the WTO General Council to continue the longstanding Work Program on Electronic Commerce and to maintain a moratorium on duties on electronic transmissions. The United States continues to work to develop support for making this moratorium permanent and binding under the WTO.

In December 2019, USTR completed the first segment of its investigation under section 301 of the Trade Act of 1974 and concluded that France's Digital Services Tax (DST) discriminates against U.S. companies. In addition, the investigation found that the French DST is inconsistent with prevailing tax principles on account of its retroactivity, its application to revenue rather than income, its extraterritorial application, and its purpose of penalizing particular U.S. technology companies. USTR is exploring whether to open such investigations into similar digital services taxes imposed by other countries. (*For more information, see Chapter II.B.3*).

USTR raised digital trade issues in many bilateral engagements throughout 2019, including in consultations with FTA partners and formal Trade and Investment Framework Agreement (TIFA) meetings. USTR took the opportunity, both in the WTO and through extensive bilateral engagement, to address numerous trade-restrictive aspects of proposed implementing decrees of cybersecurity laws in Vietnam and China and pressed Indonesia to implement amendments to a highly restrictive data localization law. USTR also continued to advocate for U.S. digital trade interests in international fora such as the G20 and the Organisation for Economic Co-operation and Development.

# E. Trade and the Environment

Over the course of 2019, the Administration demonstrated its strong commitment to monitoring and enforcing the environment provisions in our trade agreements and securing robust new environmental commitments in the United States–Mexico–Canada Agreement (USMCA), while significantly advancing a range of trade and environment matters in multiple fora, including the World Trade Organization (WTO).

In December 2019, the United States, Canada, and Mexico agreed to further strengthen the environmental protections afforded by the USMCA, including by signing an additional environment and customs cooperation and verification agreement that will further bolster U.S.-Mexico customs cooperation to combat trafficking in wildlife, fish, and timber. In negotiating the USMCA Environment Chapter, the United States strengthened and modernized the existing environmental framework under the North American Agreement on Environmental Cooperation (NAAEC) by bringing the environmental obligations into the core of the new trade agreement, rather than in a side agreement, and making them fully enforceable under the USMCA's dispute resolution provisions, including by shifting the burden of proof to the responding party to demonstrate that an alleged failure to effectively enforce environmental laws did not impact trade. The USMCA includes commitments to implement key multilateral environmental agreements, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Montreal Protocol on Ozone Depleting Substances. The USMCA also addresses key environmental challenges such as illegal, unreported, and unregulated (IUU) fishing and harmful fisheries subsidies. USMCA commits the United States, Canada and Mexico to take actions to combat and cooperate to prevent trafficking in timber and fish and other wildlife. For the first time in a U.S. trade agreement, the USMCA also addresses other pressing environmental issues such as air quality and marine litter. In parallel with the USMCA, the United States, Mexico and Canada will implement a new environmental cooperation agreement, the Agreement on Environmental Cooperation (ECA), which also updates and supersedes the NAAEC and modernizes and enhances the effectiveness of environmental cooperation between the three parties. The USMCA received strong bipartisan support in the U.S. Congress, and the implementing bill (H.R.5430) includes over $400 million in new resources to support enhanced monitoring and enforcement of the USMCA environmental protections, as well as much needed border water infrastructure.

The United States has continued to prioritize monitoring and enforcement of environmental obligations under existing free trade agreements (FTAs), including through regular meetings of the Interagency Subcommittee on FTA Environment Chapter Monitoring and Implementation and through bilateral and regional meetings of FTA environment oversight bodies. In particular, USTR was active in monitoring and enforcing the United States–Peru Trade Promotion Agreement (PTPA) and its landmark Forest Annex. Following a 2018 verification exercise, the United States took action in July 2019 to block future timbers imports from a Peruvian exporter based on illegally harvested timber found in its supply chain. In addition, in January 2019, the United States acted swiftly in response to Peruvian action to move its independent forest oversight body, the Agency for the Supervision of Forest Resources and Wildlife (OSINFOR), from under Peru's Presidency of the Council of Ministers to Peru's Ministry of Environment (MINAM), by requesting the first ever environment consultations under an FTA to discuss this important matter. In April 2019, these consultations resulted in Peru returning OSINFOR to its previous position in the Council of

Ministers, reporting directly to Peru's Prime Minister. In September 2019, the United States requested the first ever environment consultations under the United States–Korea Free Trade Agreement (KORUS) to discuss concerns with Korea's response to incidents of IUU fishing by its vessels. In November 2019, USTR welcomed passage of amendments to Korea's Distant Water Fisheries Development Act, which strengthens Korea's regime to combat and punish IUU fishing. The United States also continued to hold regular meetings of the environment committees established under our trade agreements to monitor and enforce the Environment Chapter obligations, including meetings with officials from Central American countries and the Dominican Republic, Korea, and Peru.

At the WTO, the United States continued its leadership role in advancing the negotiations on a new multilateral agreement to prohibit harmful fisheries subsidies by introducing multiple new proposals, including proposals to prohibit subsides for fishing on the high seas and for fishing vessels not flying the flag of the subsidizing country.

In 2019, the United States also continued to work with trading partners under Trade and Investment Framework Agreements (TIFAs) on a range of trade-related environmental issues such as wildlife trafficking and IUU fishing, in particular with Ecuador, Laos, Maldives, Sri Lanka, Uruguay, and Vietnam.

## 1. 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 2019. USTR continued to convene meetings of the Trade Policy Staff Committee (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. In March 2019, the Government Accountability Office (GAO) closed its review of USTR's process for monitoring implementation of FTA environmental commitments, noting that USTR had implemented the GAO's recommendations.

**United States–Mexico–Canada Agreement**

In December 2019, the United States, Mexico, and Canada concluded negotiations and signed the USMCA, which modernizes the existing framework under the NAAEC by bringing the environmental obligations into the core of the Agreement, rather than in a side agreement, and by making them fully enforceable under the USMCA's dispute resolution provisions. The USMCA Environment Chapter includes the most comprehensive set of enforceable environmental obligations of any previous United States free trade agreement, including obligations to: combat trafficking in timber and fish and other wildlife; strengthen law enforcement networks to stem trafficking; combat IUU fishing and eliminate harmful fisheries subsidies; and address pressing environmental issues such as air quality and marine litter.

In parallel with the USMCA, a new ECA between the United States, Mexico, and Canada will be implemented. The ECA updates and supersedes the NAAEC, supporting implementation of the environmental commitments in the USMCA and modernizing and enhancing the effectiveness of environmental cooperation between the parties. The ECA retains the Commission for Environmental Cooperation as established under the former NAAEC. Areas of cooperation under the ECA include efforts to reduce pollution, strengthen environmental governance, conserve biological diversity, and sustainably manage natural resources.

**Dominican Republic–Central America–United States Free Trade Agreement**

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 2019 to discuss priorities for monitoring and implementation of the Environment Chapter obligations. The Environmental Affairs Council met in November 2019 in Miami, Florida and discussed challenges and progress in implementing the Environment Chapter obligations with a particular focus on efforts to combat wildlife trafficking and IUU fishing. The Council also discussed strategies for solid waste management, emphasizing the importance of reducing marine debris, while recognizing that gaps remain in addressing these environmental challenges. The Council examined the role of environmental regulations and effective enforcement of environmental laws, and exchanged views on legislative, institutional, and procedural measures that can help improve effective enforcement and promote high levels of environmental protection.

The Council received an update from the independent Secretariat for Environmental Matters (Secretariat), which has received 43 submissions from the public regarding effective enforcement of environmental laws since its establishment in 2007. The Secretariat reported on four active submissions and updated the Council on the factual records related to the construction of a cruise ship terminal port in Honduras and animal welfare at a zoo in the Dominican Republic, respectively. In 2019, the Secretariat received two new submissions from the public alleging a CAFTA–DR party's failure to effectively enforce its environmental laws, which are being reviewed by the Secretariat. Furthermore, the Secretariat conducted outreach to inform the public about this monitoring mechanism, reaching hundreds of people, including through legal clinics to promote participation in the Secretariat submissions mechanism, resulting in the first submission from clinic participants.

The United States continued to provide capacity-building support to CAFTA-DR partners. For example, the U.S. Government worked with local authorities throughout the region to develop strategies at 12 wastewater treatment plants to optimize plant operations. In addition, the U.S. Government worked with the Wildlife Conservation Society and local partners in the Dominican Republic and Guatemala to protect habitat for the Hispaniolan parrot and the scarlet macaw, respectively. The U.S. Government also supported workshops to improve compliance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora' (CITES), and worked with Honduras to build capacity of a forensic timber identification laboratory to support cases associated with illegal trade of timber.

**United States–Colombia Trade Promotion Agreement**

The United States continued to work closely with Colombia to monitor implementation of the United States–Colombia Trade Promotion Agreement (CTPA) Environment Chapter and oversee the operation of the independent Secretariat for Environmental Enforcement Matters (Secretariat). The Secretariat is housed by Fondo para la AcciónAmbiental y la Niñez (FondoAcción) in Bogotá, Colombia and receives and considers submissions from the public on matters regarding enforcement of environmental laws pursuant to the CPTA. In July 2019, the United States and Colombia selected an Executive Director to lead the Secretariat, and shortly thereafter representatives from both governments participated in various events in Colombia to promote awareness of the Secretariat and the public submission mechanism. The United States provided capacity building assistance under the United States–Colombia Environmental Cooperation Work Program to support Colombia's implementation of its environmental obligations under the CTPA, including programs aimed at improving enforcement of environmental laws, combatting illegal logging and illegal mining.

**United States–Panama Trade Promotion Agreement**

The United States and Panama continued efforts to strengthen environmental protection and monitor implementation of the Trade Promotion Agreement Environment Chapter, including through the independent Secretariat for Environmental Enforcement Matters (Secretariat). The Secretariat promotes public participation in the identification and resolution of environmental enforcement issues by receiving and considering submissions from the public on matters regarding enforcement of environmental laws. The Secretariat received two submissions during this reporting period alleging that Panama had failed to comply with its environmental laws related to the development and approval of environmental management plans for the Bay of Panama and Gulf of Montijo wetland areas. As a result of the submission process, Panama finalized and published the environmental management plan for the Gulf of Montijo and has constituted a technical committee to oversee the development of the environmental management plan for the Bay of Panama.

In support of the United States–Panama Environmental Cooperation Commission Work Program for 2018 through 2022, the United States provided capacity-building assistance to Panama to help it to implement environmental obligations under the CTPA, including by supporting efforts to: combat wildlife trafficking and strengthen CITES implementation; combat illegal logging and improve forest management; support implementation of the International Convention for the Prevention of Pollution from Ships; and combat IUU fishing.

**United States–Peru Trade Promotion Agreement**

The United States continued to prioritize monitoring and enforcement of the PTPA and its landmark Forest Annex, including by convening several meetings of the Interagency Committee on Trade in Timber Products from Peru to discuss and monitor developments in Peru to combat illegal logging. In January 2019, the United States acted swiftly in response to Peruvian action to move its forest oversight body, the Agency for the Supervision of Forest Resources and Wildlife (OSINFOR), from under Peru's Presidency of the Council of Ministers to Peru's Ministry of Environment (MINAM). The United States requested the first ever environment consultations under the PTPA to discuss this important matter. In April 2019, these consultations resulted in Peru returning OSINFOR to its previous position in the Council of Ministers, reporting directly to Peru's Prime Minister.

As a result of a 2018 timber verification request, and Peru's responsive investigation of three different timber shipments to the United States, in July 2019, the Administration took action to block future timber from a Peruvian exporter based on illegally harvested timber found in its supply chain. USTR and other U.S. agencies will continue to engage closely with Peru to address remaining challenges to combating illegal logging highlighted by the verifications and press Peru to implement further reforms and remains committed to vigorously enforcing the PTPA Forest Annex.

In addition, the United States and Peru held multiple bilateral meetings to discuss and monitor implementation of obligations under the PTPA's Environment Chapter and Forest Annex, with broad participation from a range of government agencies and stakeholders. In February 2019, Peru and the United States convened the eighth meeting of the Environmental Affairs Council (EAC), which advanced the environment consultations regarding OSINFOR, and reviewed progress to implement the obligations under the Environment Chapter of the PTPA. The Parties highlighted their cooperation on forest sector governance, and environmental monitoring and enforcement in support of the PTPA environment chapter obligations. The EAC also reviewed implementation of the Secretariat for Submissions on Environmental Enforcement Matters established in Article 18.8 of the PTPA. By December 2019, the Secretariat had received four public submissions alleging failures to effectively enforce environmental laws with the development of one factual record under way.

**United States–Korea Free Trade Agreement**

The United States and Korea continued efforts to monitor and enforce implementation of the KORUS Environment Chapter. The Environment Affairs Council and Environmental Cooperation Commission met in May 2019 in Washington, DC and reviewed actions they have taken to increase levels of environmental protection and ensure effective enforcement of environmental laws. The Environmental Cooperation Commission agreed on a 2019 through 2022 Work Program that includes activities to strengthen implementation and enforcement of environmental laws. In an effort to further monitor implementation of environment obligations, the United States requested environment consultations with Korea under the KORUS Environment Chapter on September 19, 2019 to discuss concerns regarding Korea's ability to apply sufficient sanctions to deter its vessels from engaging in fishing activities that violate conservation and management measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). On October 17, 2019, the United States and Korea held productive environment consultations in Seoul with representatives from Korea's Ministry of Trade, Industry & Energy, Ministry of Oceans and Fisheries, Ministry of Foreign Affairs, and the Korea Coast Guard. Shortly thereafter, the Korean National Assembly adopted amendments to Korea's Distant Water Fisheries Development Act which now enable the Minister of Oceans and Fisheries to administer administrative sanctions for actions not in conformity with conservation and management measures of regional fisheries management organizations, including CCAMLR. USTR welcomed the passage of these amendments, which will strengthen Korea's regime to combat and take effective action against illegal fishing.

## 2. Multilateral and Regional Fora

**Regional Engagement**

In the Asia-Pacific Economic Cooperation (APEC) forum, the United States worked with other Asia-Pacific economies through the Experts Group on Illegal Logging and Associated Trade (EGILAT) to improve the capacity of APEC officials to combat illegal logging and associated trade and promote the trade in legally harvested forest products within the APEC region. The United States co-sponsored a resource guide on tools for timber monitoring and traceability in order to help ensure timber legality. In addition, the United States actively participated in APEC's Oceans and Fisheries Working Group, where the member economies adopted IUU fishing and Marine Debris Roadmaps.

**WTO and Other Multilateral Engagement**

As described in more detail in Chapter IV 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.

In particular, the United States continued its leadership role in advancing the WTO fisheries subsidies negotiations, including by tabling strong and innovative new proposals to prohibit some of the most harmful subsidies that go to industrial fishing fleets. The United States will continue to constructively advance the work to reach a new multilateral agreement by the WTO Ministerial meeting in June 2020, and press for ambitious disciplines on fisheries subsidies, which would apply to all Members regardless of development status, in particular those that are the largest producers, exporters and subsidizers of marine wild capture fisheries.

In 2019, USTR also participated in the implementation of a number of multilateral environmental agreements (MEAs) and multilateral initiatives to ensure consistency with international trade obligations, including: CITES, the Strategic Approach to International Chemicals Management (SAICM), 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, as well as relevant regional fisheries management organizations. For example, USTR participated in the Eighteenth CITES Conference of the Parties in August 2019, where discussions included implementation by Parties of national CITES implementing legislation, international wildlife, timber and fish trade, and improving the effectiveness of CITIES implementation, as well as the Basel Convention's Conference of the Parties meetings in May 2019, where discussions focused on addressing plastic wastes and recyclable plastic materials that have become particularly problematic for our oceans and marine environments. USTR is also participating in ongoing negotiations in the (Organisation for Economic Co-operation and Development) OECD to right size the Basel adopted framework for trade in plastic waste and scrap for OECD Members, a distinct set of countries with strong capacity for solid waste management and plastic recycling.

# F. Trade and Labor

In 2019, the U.S. Government promoted respect for labor rights as part of engagement with trade partners 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 African, Asia-Pacific, South and Central Asian, Latin American, and European countries, including through trade agreement mechanisms, Trade and Investment Framework Agreements (TIFAs), and multilateral fora, such as the International Labor Organization (ILO), the Asia-Pacific Economic Cooperation (APEC) Forum, the Association of Southeast Asian Nations (ASEAN), and the Organization for Economic Co-operation and Development (OECD).

The United States has used available trade policy tools to hold trading partners accountable for protecting labor rights, including by terminating trade preference program benefits for Mauritania effective January 1, 2019, after that country made insufficient progress towards combating forced labor. In 2019, the United States also announced the suspension of $1.3 billion in trade preferences for Thailand based on its failure to adequately provide internationally-recognized worker rights, and self-initiated a GSP-eligibility review for Azerbaijan based on worker rights concerns. As part of using policy tools under trade agreements, the United States worked closely with the governments of Mexico and Honduras regarding extensive legislative and regulatory reform initiatives in those countries to improve respect for labor rights. Labor reform commitments by Mexico were a key aspect of building broad support for the United States-Mexico-Canada Agreement (USMCA) (*for additional information, see Chapter I.A.1*).

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.F.3*).

## 1. Bilateral Agreements and Preference Programs

### Free Trade Agreements

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 to the labor chapters, which can be submitted through the Department of Labor's (DOL) Bureau of

International Labor Affairs (ILAB) (*for additional information on public submissions and the process for filing, see the ILAB website*).

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 respect for labor rights through technical cooperation and other efforts, including in the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) countries, Colombia, Jordan, Korea, Mexico, Morocco, Panama, and Peru (*for additional information, see Chapter I.C*). In 2019:

- USTR officials met with government officials and stakeholders to follow up on the labor commitments under the United States-Colombia Trade Promotion Agreement (CTPA) and the United States-Peru Trade Promotion Agreement (PTPA). In particular, discussions were held with respect to commitments by these trading partners to protect the rights of freedom of association and collective bargaining for workers that are subcontracted or hired under temporary contracts.

- USTR officials also met with Korean officials under the United States-Korea Free Trade Agreement (KORUS) to discuss Korea's compliance with labor rights obligations. Those discussions centered on commitments to protect the rights of freedom of association and collective bargaining and, in particular, regulatory protection against criminal sanctions when engaging in protected, concerted activities.

- USTR and DOL officials met with Honduran officials to encourage fulfillment of Honduras' outstanding commitments on fine collection and freedom of association under the Monitoring and Action Plan.

- U.S. Government officials continued to urge the government of Bahrain to address labor rights concerns related to freedom of association and employment discrimination highlighted during consultations that began in 2013 under the Labor Chapter of the United States-Bahrain Free Trade Agreement.

- U.S. Government officials continued to work closely with Jordanian officials during the year to monitor implementation of labor reforms planned under the auspices of the United States-Jordan Free Trade Agreement, particularly with respect to protections from anti-union animus, sexual harassment and discrimination in the workplace, and new procedures to oversee the health and safety of workplace dormitories.

**United States-Mexico-Canada Agreement Labor Achievements**

As part of the Administration's successful effort to renegotiate the North American Free Trade Agreement (NAFTA) and conclude the USMCA, USTR, 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 comprehensive overhaul of Mexico's system of labor justice administration. In 2017, Mexico's congress enacted the constitutional reforms after they were approved by a majority of Mexican states. In May 2019, Mexico enacted a comprehensive legislative package to implement the constitutional reforms. The legislation includes detailed provisions intended to address longstanding concerns regarding the worker approval for, and government registration of, collective bargaining agreements, as well as the voting process to decide union representation challenges. The Administration also negotiated specific commitments in the USMCA Labor Chapter, some of which are included in an Annex on Worker Representation in Collective Bargaining in Mexico, to ensure that Mexico enacts and

implements legislation that strengthens its labor standards, bolsters its system of labor justice administration, and provides for the effective recognition of collective bargaining rights.

The Administration also negotiated an innovative "Rapid Response" dispute settlement mechanism with Mexico to endure protection of labor rights at the factory level. The new mechanism will enlist Labor Panelists to assess complaints about conditions at specific facilities, and provides for the suspension of USMCA tariff benefits or the imposition of other penalties, such as blocking imports from businesses that are repeat offenders, in cases of non-compliance with key labor obligations. In order to ensure adequate monitoring and enforcement resources for these labor obligations, the USMCA implementing legislation allocates $30 million each for USTR and the DOL, which includes the posting of five DOL labor attachés to Mexico. The new resources will also support the creation and operation of an Interagency Labor Committee to monitor and enforce USMCA's labor provisions, with a particular focus on Mexico's historic labor reform process. In addition, the implementing legislation allocates $180 million to the DOL for technical assistance programs to combat forced labor and child labor, to build the capacity of workers' organizations, and to reduce workplace discrimination in Mexico. USTR also coordinated discussions between officials from the U.S. Department of Homeland Security (DHS) Immigration and Customs Enforcement, U.S. DHS Customs and Border Protection, and Mexican customs agencies on the provisions requiring NAFTA countries to implement measures to prohibit trade in goods produced by forced labor. The Administration will continue to monitor Mexico's labor reform effort and the implementation of the May 2019 legislative package, including issues related to budget resources for the reforms, to ensure that Mexico fulfills its USMCA commitments so that American workers and businesses fully benefit from the Agreement. (*For additional information, see Chapter I.A.1*).

**Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR)**

In 2019, the United States continued to monitor and assess progress towards addressing the labor concerns in the Dominican Republic and Honduras outlined in public reports issued by DOL in 2013 in response to public submissions under the CAFTA-DR.

The United States continues to discuss the recommendations in the 2013 report regarding the Dominican Republic for improving labor inspections with the government of the Dominican Republic, as well as with the sugar industry and civil society. The Dominican government has made progress on the recommendations, but the United States will continue to work with the Dominican Republic on remaining shortcomings in the labor inspections process (*for additional information, see Chapter I.C.3*).

The United States and Honduras signed a labor Monitoring and Action Plan (MAP) in December 2015 that includes comprehensive commitments by Honduras to improve legal and regulatory systems that protect labor rights, intensify targeted enforcement efforts, and improve transparency. Honduras took additional steps to implement the MAP in 2019, but there are ongoing problems in the areas of fine collection and freedom of association in emblematic cases, and the United States will continue to work with Honduras on these matters (*for additional information, see Chapter I.C.3*).

**United States-Colombia Trade Promotion Agreement**

In 2019, the United States worked closely with Colombia to follow up on DOL's 2017 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. Based on its review, DOL issued in January 2017 a public report, 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. DOL issued a review statement on the submission in January 2018 noting the steps the Colombian government had taken to improve labor law enforcement and address areas of concern raised in both the submission report and the 2011 Action Plan. The Colombian Ministry of Labor continued to expand the national coverage of an electronic case management system, which modernizes the national system for tracking labor complaints and the application and collection of fines; the Prosecutor General's Office (Fiscalía) increased the resolution rate in criminal cases of employers infringing on certain labor rights. In addition to the ongoing presence of a DOL Labor Attaché in Colombia, DOL and USTR officials traveled to the country in July 2019 to continue engagement on key labor issues. During this trip, USTR met with the Colombian Vice Minister of Labor, other high-level government officials, and various stakeholders, including workers and employer representatives from priority sectors, to discuss progress and remaining concerns regarding labor law enforcement. Officials from USTR and DOL also met with the Colombian Deputy Attorney General and his team to discuss ongoing initiatives to prosecute perpetrators of violence against trade unionists. USTR and DOL will continue to engage closely with the government of Colombia to ensure continued progress on labor rights issues. (*For additional information, see Chapter I.C.5*).

**United States-Peru Trade Promotion Agreement**

USTR and DOL continued to engage with the government of Peru on concerns that were raised in a 2016 DOL report on a public submission under the United States-Peru Trade Promotion Agreement. DOL's 2016 report recommended that the government of Peru take steps to address problems with temporary contracts in special government export-promotion regimes (with tax and other benefits for exporters), primarily textiles and agriculture, where there were ongoing concerns that employers use these arrangements to undermine the free exercise of labor rights. USTR and DOL officials traveled to Peru in April 2019 to discuss Peru's efforts to increase resources for labor inspections and expand offices of the federal labor inspectorate throughout the country. (*For additional information, see Chapter I.C.12*).

**Preference Programs and Other Bilateral Agreements**

U.S. trade preference programs, including the Generalized System of Preferences (GSP), the Africa Growth and Opportunity Act (AGOA), and trade preferences for Haiti and Nepal, require beneficiaries to meet statutory eligibility criteria pertaining to internationally-recognized worker rights and child labor. This section describes labor engagement under these programs as well as other bilateral trade mechanisms.

During 2019, USTR continued to implement a new effort to ensure beneficiary countries are meeting the eligibility criteria of the GSP program, including the worker rights criterion. USTR, in consultation with the TPSC GSP Subcommittee, assessed countries in the Western Hemisphere and European regions during 2019. As a result of the assessments, USTR self-initiated an eligibility review for Azerbaijan based on worker rights. USTR also continued its engagement with governments and stakeholders involved in ongoing GSP worker rights reviews, including Bolivia, Georgia, Iraq, Kazakhstan, Thailand, and Uzbekistan.

During the year, USTR closed worker rights reviews for Bolivia and Iraq based on reforms in both countries. In Bolivia, the government addressed concerns by raising the minimum age of work to 14, in line with international standards. As a result, USTR announced in October 2019 that it would close the review of Bolivia originally opened in 2017, without the loss of trade benefits. USTR also announced the closure of the worker rights review for Iraq, which originated in response to a petition from the AFL-CIO in 2012. USTR's decision followed steps taken by the government of Iraq to improve labor rights, including strengthening labor inspections and passing legislation that broadens freedom of association and collective bargaining rights, further limits child labor, and provides improved protections against discrimination and

sexual harassment at work. In addition, the government of Iraq held broad consultations with domestic stakeholders throughout the year to reform a trade union law that would provide new rights for independent trade unions.

In 2019, USTR determined that the government of Thailand had not addressed long-standing U.S. Government concerns regarding labor laws and enforcement practices, despite the provision of technical assistance and intensive engagement under the GSP review. Because of Thailand's failure to take steps to afford internationally recognized worker rights, USTR announced that Thailand would lose approximately one-third of its GSP benefits, amounting to nearly $1.3 billion, to take effect on April 25, 2020.

The U.S. Government has successfully provided technical assistance to a number of countries to help them address the concerns raised under GSP worker rights reviews. For example, 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. Both of these programs promote the fundamental principles and rights at work. During 2019, USTR and funding-agencies engaged closely with both countries, noting enforcement improvements in Georgia and advances made by the government of Uzbekistan to eradicate forced child labor and reduce forced adult labor in the annual cotton harvest. Kazakhstan continued consultations, during the year, with domestic stakeholders and the ILO, on reforms of its labor law following problematic amendments enacted in 2014 and the subsequent arrests of independent trade union leaders. (*For additional information on the GSP Program, see Chapter II.E.1*).

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. A labor rights-focused session on promoting compliance in supply chains was part of the annual AGOA Forum held in Abidjan, Cote d'Ivoire in August 2019. Officials from USTR, DOL, and State traveled to Ethiopia in December 2019 to hold discussions on the implementation of Ethiopia's new labor law and the country's efforts to institute a minimum wage in the textiles and garment sector. USTR discussed labor laws and labor law implementation with Kenyan officials during the October 2019 meeting of the Trade and Investment Working Group. The United States terminated Mauritania's AGOA eligibility as of January 1, 2019, due to insufficient progress toward combating forced labor. Representatives from DOL and State visited Mauritania during 2019 to monitor the country's progress on combatting trafficking in persons, which includes efforts to identify and remedy forced labor. (*For additional information on the AGOA program, see Chapter II.E.2*).

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 internationally recognized worker rights. DOL, in consultation with USTR, is charged with publically identifying noncompliant producers on a biennial basis and providing assistance to such producers to comply with the standards. In addition, 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 2018, during which DOL continued to provide support to at-risk producers. During the year, 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 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 internationally recognized worker rights. (*For additional information, see the 2019 USTR Annual Report on the Implementation of the TAICNAR program).*

USTR also engaged with several countries in 2019 on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. For example, in October 2019, USTR State, and DOL officials met with

the government of Cambodia within the context of the United States-Cambodia TIFA to discuss pending labor law reforms. In October 2019, officials from USTR, State, and DOL also met with the governments of Afghanistan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkistan, and Uzbekistan, under the auspices of the United States-Central Asia TIFA, to discuss specific labor issues in each country. Additional TIFA meetings, or similar bilateral discussions during the year with Bangladesh, Ecuador, Egypt, Iraq, Maldives, Pakistan, Sri Lanka, Thailand, and Vietnam further highlighted the importance of ensuring that labor laws fully protect internationally recognized worker rights and that government agencies have the capacity to enforce domestic labor laws.

The United States and China continued to exchange information on workplace safety and health issues in 2019. In April, the two countries held the annual United States-China Workplace Safety and Health Dialogue to discuss policies and programs focusing on labor inspection and enforcement.

In November 2019, the government of Vietnam adopted an amended Labor Code that includes provisions to allow for the formation of independent unions in the country for the first time. This followed coordinated engagement with the government of Vietnam by USTR, DOL, and State on labor reform, including discussions at the United States-Vietnam TIFA meeting in October 2019 in Washington, D.C., as well as U.S. Government-funded technical assistance projects for Vietnam to address consistency with international labor standards within its system of industrial relations more broadly. For example, DOL is currently funding a $4 million project to implement a New Industrial Relations Framework in Vietnam, which aims to support Vietnam's Ministry of Labor, Invalids, and Social Affairs in reforming laws. U.S. Government engagement will continue as Vietnam drafts and issues implementing regulations.

In 2019, USTR continued to coordinate U.S. Government engagement around the Initiative to Promote Fundamental Labor Rights and Practices in Myanmar (Initiative), including through engagement with the government of Burma on existing and pending labor law reforms. The Initiative is an innovative multi-stakeholder effort launched by the government of Burma and USTR in 2014, which 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, DOL and State continued to implement technical assistance programs aimed at assisting Burma's own comprehensive labor reforms and efforts to establish productive and cooperative industrial relations among social stakeholders.

## 2. International Organizations

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 rights 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 ILO Secretariats. In 2019, USTR met with ILO experts to discuss the implementation of labor standards in trade partner countries and to discuss broader labor themes such as labor inspection, gender, global supply chains, and the ILO Better Work program.

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 issues in the next generation of trade agreements. To support this goal, USTR has proposed a five-year project that aims to examine labor-related technical assistance and capacity building provisions in Regional Trade

Arrangements/Free Trade Agreements. In ASEAN, USTR has engaged member states and stakeholders to promote future activities to strengthen prohibitions against human trafficking, particularly in the Southeast Asian fishing industry. USTR is supporting USAID in its 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. Through TIFAs with Southeast Asian Member States, as well as through the ASEAN Economic Ministers-United States Trade Representative (AEM-USTR) Consultations and ASEAN Senior Economic Officials-Assistant USTR (SEOMAUSTR) Consultations, USTR is exploring ways to strengthen collaboration and capacity in the region to protect fundamental labor rights. In 2019, USTR advocated for USAID programming for ASEAN member states on the role of labor provisions in trade agreements. USTR continues to collaborate with DOL and State to further these goals.

## 3. 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 Chapter 2 of 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) reauthorized the TAA Program. The TAA Program offers trade-affected workers opportunities to obtain the skills, credentials, resources and support necessary for in-demand jobs.

The TAA Program currently offers the following services to eligible workers: employment and case management services, 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 2019, $582,109,000 was allocated to State Governments to fund aspects of the TAA program. This included $401,020,000 for "Training and Other Activities", which includes funds for training, job search allowances, relocation allowances, employment and case management services, and related state administration; $161,800,000 for TRA benefits; and $19,289,000 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 2019, an estimated 88,000 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 at the CareerOneStop website 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.

On November 7, 2019, the DOL posted a Notice of Proposed Rulemaking (NPRM) to the Federal Register that would both expand worker access to support opportunities, such as apprenticeships, and make it easier for states to administer the TAA Program. This NPRM marks the first proposed regulatory update to the TAA Program in more than two decades. The public comment period closed on December 11, 2019, and the Final Rule is expected to be issued in FY 2020.

**Trade Adjustment Assistance for Farmers**

The Trade Adjustment Assistance for Farmers Program is authorized under Chapter 6 of Title II of the Trade Act of 1974, as amended, and was reauthorized by the Trade Preferences Extension Act of 2015 for FY 2015 through 2021. However, Congress did not appropriate funding for new participants for FY 2019. As a result, the U.S. Department of Agriculture did not accept any new petitions or applications for benefits in FY 2019.

**Assistance for Firms and Industries**

The U.S. Economic Development Administration's (EDA) Trade Adjustment Assistance for Firms Program (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, 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 Commerce is responsible for administering the TAAF Program and has delegated the statutory authority and responsibility under the Trade Act to EDA. EDA's regulations implementing the TAAF Program are codified at 13 CFR Part 315 and available on EDA's website.

In FY 2019, EDA awarded a total of $13 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 2019, EDA certified 67 petitions for eligibly and approved 66 adjustment protocols.

Additional information is available on the TAAF Program website (including eligibility criteria and application process).

# G. Small and Medium-Sized 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 U.S. trade policy and enforcement activities. In 2019, USTR continued to engage with its interagency partners and with trading partners to develop and implement new and ongoing 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 take advantage of new markets 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 SMEs reach overseas markets by improving data availability, 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 that help provide U.S. SMEs information, assistance, and counselling on specific export opportunities. In 2019, USTR undertook a range of 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 intellectual property rights protection in foreign markets present particular challenges for U.S. SMEs 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 United States-Mexico-Canada Agreement (USMCA) recognizes the fundamental role of SMEs as engines of the North American economy. Mexico and Canada are the top two export destinations for U.S. SME goods. In 2017 (latest data available), 89,239 U.S. SMEs exported $57.8 billion in goods to Canada, and 52,051 U.S. SMEs exported $79.7 billion in goods to Mexico. For the first time in a U.S. trade agreement, the USMCA includes a dedicated chapter on SMEs, as well as other key provisions supporting SMEs throughout the agreement. The SME chapter promotes cooperation among the Parties to increase SME trade and investment opportunities. It establishes information-sharing tools that will help SMEs better understand the benefits of the agreement and provides other information useful for SMEs doing business in the region. The chapter also establishes a committee on SME issues comprised of government officials from each country. Furthermore, the chapter launches a new framework for an ongoing SME Dialogue, which will be open to participation by SMEs, including those owned by diverse and under-represented groups. The Dialogue will enable participants to provide views and information to government officials on the implementation of the agreement to help ensure that SMEs continue to benefit. Other provisions throughout the USMCA benefitting SMEs include customs and trade facilitation provisions to cut red tape and reduce costs and a new chapter on digital trade that contains the strongest provisions of any international agreement, including: (1) supporting Internet-enabled small businesses and electronic commerce exports; (2) protecting the intellectual property of innovators; (3) supporting cross border trade in services for small business; and (4) supporting small businesses through good regulatory practices to promote transparency and accountability when developing and implementing regulations.

- The United States-United Kingdom (UK) Trade and Investment Working Group (TIWG) explores 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. Under the auspices of the SME Working Group of the TIWG, the United States and UK established the U.S.-UK Small and Medium-Sized Enterprise Dialogue to promote collaboration on best practices, policies, and programs to support SME businesses and export opportunities. In 2019, the fourth U.S.-UK SME Dialogue took place in Bristol, United Kingdom, focusing on opportunities and obstacles for SMEs in accessing U.S. and UK markets, emerging technology services SMEs, and supporting SME growth. The United States and UK also launched the first sectoral SME best practice exchange focused on marine technology and highlighting the benefits of the Mutual Recognition Agreement on Marine Equipment signed by the United States and UK in Washington, DC in February 2019. As a result of the SME Dialogues, the U.S. and UK Governments jointly released the guide *Doing Business in the U.S. and UK: Resources for Small Business* as a key resource for SMEs seeking to benefit from U.S.-UK trade. The United States and UK also released IP toolkits for SMEs and electronic commerce resource guides.

- In February 2019, USTR published U.S. negotiating objectives for United States-United Kingdom negotiations, including SME objectives.

- In September 2019, the United States hosted the tenth U.S.-EU SME Workshop in Little Rock, Arkansas, hosted by the Governor of Arkansas and the State of Arkansas Economic Development Commission at the Arkansas Regional Innovation Hub. The SME Workshop was convened by USTR, the U.S. Department of Commerce, and SBA on the U.S. side and the EU's Directorate General for Trade and Directorate General for Internal Market, Industry, Entrepreneurship, and SMEs (DG-GROW) on the EU side, and included participation by U.S. SME stakeholders and members of Industry Trade Advisory Committee 9 (ITAC 9: Small and Minority Business Committee). Topics included U.S.-EU trade, international strategies for rural economic development, small business participation in transatlantic supply chains, workforce training for global competitiveness, and small business innovation in industries of the future.

- In January 2019, USTR published U.S. negotiating objectives for United States-European Union negotiations, including SME objectives.

- In December 2018, USTR published U.S. negotiating objectives for the United States-Japan Trade Agreement negotiations, including SME objectives.

- In an APEC forum, APEC economies continue to advance initiatives to facilitate SME access to global markets, including in the digital economy, by enhancing the understanding of policy makers on the impact of forced localization requirements and blocking cross-border data flows on SMEs. The United States, including through the APEC Alliance for Supply Chain Connectivity, 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 to help SMEs seeking information on tariff rates, customs procedures, and other information for doing business in APEC markets. In July 2019, USTR also participated in an APEC FTA Capacity Building Workshop on FTA Negotiation Skills on SMEs, in order to highlight the benefits of high standard trade provisions for SMEs and the U.S. SME Chapter model in the APEC region.

- In the United States-Kenya Trade and Investment Working Group in Nairobi in October 2019, USTR and the Department of Commerce highlighted the importance of high standard trade policy provisions benefitting SMEs and opportunities for U.S.-Kenya SME commercial cooperation.

- 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 electronic commerce, transparency of regulatory processes, and implementation of trade facilitation measures.

**USTR Interagency Small and Medium-Sized Enterprise Activities**

USTR participates in the Trade Promotion Coordinating Committee's (TPCC) Small Business Working Group, collaborating with agencies such as the U.S. Department of Commerce, SBA, the U.S. Department of State, the U.S. Export-Import Bank, and the U.S. Department of Agriculture 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 TPCC Small Business Working Group's Digital Client Engagement (DCE) Task Force to improve interagency collaboration on digital outreach and engage potential small business exporters with online tools. USTR also participated in the USMCA Interagency Working Group convened by SBA's Office of Advocacy under the Trade Facilitation and Trade Enforcement Act to: conduct outreach to SMEs in manufacturing, services, and agriculture and to prepare a report to Congress on the priorities, opportunities and challenges for SME exports in these markets.

**USTR's Small and Medium-Sized Enterprise Outreach and Consultations**

In 2019, USTR participated in engagements around the country to hear from local stakeholders about the trade opportunities and challenges they face.

USTR staff regularly consult with the Industry Trade Advisory Committee for Small and Minority Business (ITAC 9) to seek its advice and input on U.S. trade policy negotiations and initiatives, and meet frequently with individual SMEs and associations representing SME members on specific issues. USTR personnel spoke at several SME events around the country and abroad in 2019 regarding the U.S. trade agenda, including: (1) the annual America's Small Business Development Center Conference in Long Beach, California; (2) the North Alabama International Trade Association World Trade Day in Huntsville, Alabama; (3) the National Association of District Export Councils meeting in Washington, DC; (4) the Entertainment Small Business Alliance in Los Angeles, California; (5) the tenth United States-EU SME Workshop in Little Rock, Arkansas; and (6) other events aimed at apprising small businesses of the Administration's trade agenda and encouraging them to begin or expand their exports.

# H. 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 (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 World Trade Organization (WTO),

World Bank, International Monetary Fund, United Nations Conference on Trade Development, United Nations Development Program, United Nations Industrial Development Organization, United Nations Office for Project Services, World Tourism Organization, and the International Trade Center. The mechanism incorporates a country-specific diagnostic assessment, 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 to 2015) delivered 141 projects totaling $140.7 million across 51 countries. Of these projects, 105 supported trade and development capacity while 36 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. The United States has supported the EIF primarily through complementary bilateral assistance to EIF participating countries. The U.S. Agency for International Development (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 Doha Development Agenda Global Trust Fund. Overall, the United States has contributed more than $17 million since 2001. The United States served on the Steering Committee that evaluated WTO trade-related technical assistance from 2010 to 2015, including assistance funded by the Global Trust Fund, 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 IV.J.2.)*

***The Standards and Trade Development Facility***

The Standards and Trade Development Facility (STDF) is a global partnership organization to promote improved sanitary (food safety and animal health) and phytosanitary (plant health) (SPS) capacity in developing countries to facilitate safe trade, contributing to sustainable economic growth, poverty reduction, and food security. Establishing organizations include the WTO, the World Bank Group, the World Health Organization, the World Organisation for Animal Health, the United Nations Food and Agriculture Organization, the Codex and the International Plant Protection Convention Secretariats. The partnership convenes and connects SPS stakeholders and supports and implements innovative pilot projects in developing countries.

Since its launch in 2004, the STDF has supported 198 projects totaling $53.2 million. These projects have mobilized an additional $31.2 million in resources. Of these projects, 42 percent have been in Africa, 29 percent in Asia-Pacific, 18 percent in Latin America and Caribbean, and 11 percent in other regions. The United States has supported the STDF primarily through the U.S. Department of Agriculture (USDA) and the U.S. Food and Drug Administration. The United States, along with other donor countries and international organizations, participates in the STDF Working Group.

The STDF's SPS capacity building complements broader U.S. Government trade capacity building and SPS technical assistance. The United States regularly reports SPS capacity building activities to the WTO through the WTO SPS Committee.

***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). Since the conclusion of the TFA negotiations in December 2013, U.S. assistance has helped prepare a number of countries to understand and implement the TFA. As of January 2019, USAID had supported more than 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. USAID provided assistance to a number of the National Trade Facilitation Committees that are required under the TFA, such as in Ghana, Guatemala, Honduras, Serbia, and Vietnam. Direct assistance in support of simplifying customs procedures also was provided in countries such as Chile, Cote d'Ivoire, Malaysia, Mozambique, Senegal, Ukraine, Vietnam, and Zambia. Several governments also have received assistance with implementing single window customs procedures throughout the Association of Southeast Asian Nations (ASEAN) and Southern Africa.

The Global Alliance for Trade Facilitation (Alliance) was launched on December 17, 2015, during the Tenth 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 was a founding donor, joined by the governments of Australia, Canada, Germany, and the United Kingdom. In 2019, Denmark joined the Alliance. 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. The Alliance is currently operating nine implementation projects (in Brazil, Colombia, Ghana, Kenya, Malawi, Morocco, Sri Lanka, Vietnam, and Zambia) and is developing scoping activities in four additional countries (Costa Rica, India, Nigeria, and Tunisia). In addition, pre-scoping activities are underway in Jordan, Madagascar, Senegal, and the South Pacific (Papua New Guinea, Solomon Islands, and Vanuatu).

***WTO Accessions***

*For information on technical assistance during the WTO accession process, see Chapter IV.J.6.*

## 3. TCB Initiatives for Africa

Through bilateral and multilateral channels, the United States has invested or obligated more than $7.62 billion in trade-related projects in sub-Saharan Africa since 2001 to spur economic growth and alleviate poverty.

***Assistance to the African Continental Free Trade Area***

On August 5, 2019, the United States and the African Union (AU) signed a joint statement concerning the development of the African Continental Free Trade Area (AfCFTA). The United States and the AU intend to jointly identify subject areas related to the ongoing negotiation and implementation of the AfCFTA as subjects for cooperation and for possible technical assistance and capacity building. As part of these efforts, in September 2019, USTR and the U.S. Department of State hosted AU Commission officials for an International Visitors Leadership Program (IVLP) focused on U.S. trade policy approaches. Additionally, USDA is working with AU partners on developing and implementing the AfCFTA sanitary and phytosanitary policy framework.

## 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, D.C. 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 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, see the individual country sections in Chapter I.C, regional sections in Chapter I.D, environment section in Chapter III.E.1, and labor section in Chapter III.F.1.*)

## 5. Standards Alliance

In November 2012, the United States launched a new and unique 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, strengthen domestic practices related to adopting relevant international standards, and 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 and the American National Standards Institute (ANSI) entered into a public-private partnership. ANSI is the official U.S. representative to the International Organization for Standardization (ISO); its membership comprises numerous standards-setting organizations and companies, amongst many others. As the implementing partner of the Standards Alliance, ANSI coordinates private sector subject matter experts from its member organizations in the delivery of training and other technical exchange with eligible and interested Standards Alliance countries on international standards, best practices, and other subjects supporting implementation of the TBT Agreement. In coordination with USTR, the USAID-ANSI partnership includes activities in numerous markets. Since 2018, these activities have been focused in five African countries: Côte d'Ivoire, Ghana, Mozambique, Senegal, and Zambia. In consultation with Trade Policy Staff Committee (TPSC) member agencies and private sector experts, ANSI requested and reviewed applications for assistance based on consideration of: (1) bilateral trade opportunities; (2) available private sector expertise that may be leveraged; (3) demonstrated commitment and readiness for assistance; and (4) potential development impact.

The highlights of Standards Alliance programming in 2019 include:

- Anti-Bribery Management Systems for Côte d'Ivoire (March)
- Reactivation of the Senegal Commission on Food Safety (March)
- Evidence-based Regulatory Decision Making in Zambia: Regulatory Impact Analysis (May)
- Good Regulatory Practices Roundtable at U.S.-Africa Business Summit, Mozambique (June)
- WTO Transparency Workshop (June)
- Sustainable Cities Workshop in Côte d'Ivoire (August)
- Standards to Support Small and Medium-Sized Enterprises in Zambia (August)
- High Level Sensitization to Regulatory Impact Assessment for Parliamentarians in Zambia (September)
- Regulatory Impact Assessment Institutionalization Training for Heads of Regulatory Agencies in Zambia (September)
- Biofuel Standards for Cooking and Transportation in Mozambique (November)
- West Africa Petroleum Standards Workshop (November)

Finally, in 2019, USAID and ANSI were pleased to announce the launch of Standards Alliance: Phase 2. The public-private partnership will build upon the success of Phase 1 to support the capacity of developing countries in the areas of legal and regulatory framework, standards development, conformity assessment procedures, and private sector engagement. The Standards Alliance: Phase 2 will remain a public-private partnership between USAID and ANSI, and will carry out programming in the regions of Latin America, sub-Saharan Africa, Middle East North Africa, and Indo-Pacific. A key goal of Phase 2 is to help increase the capacity of developing countries to implement accepted international best practices to reduce instances of poor quality and unsafe products, services, and infrastructure. Ultimately, better adoption and implementation of international standards will improve the quality and safety of goods on a global scale.

# I. Organization for Economic Cooperation and Development

The Organization for Economic Cooperation and Development (OECD) is a grouping of economically significant countries that serves as a policy forum covering a broad spectrum of economic, social, environmental, and scientific areas, from macroeconomic analysis to education to biotechnology. Thirty-six 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 and economies, 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 2019, 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 October 2019, and its Working Party met in March, June, October, and December 2019. The Trade Committee and its subsidiary groups paid significant attention to technology transfer; digital trade, including principles for market openness in the digital age and barriers to cross-border data flows; trade facilitation; services trade; and trade and investment in global value chains. The trade page on the OECD website 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 introduction of Digital STRI to catalog barriers that affect trade in digitally enabled services across 44 countries. Among other activities in 2019, the Committee finalized new research into government support and trade distortions in the aluminum and semiconductor industries, and continued work on trade policy-making in the digital economy in line with the OECD-wide horizontal project on Digital Policy. The Trade in eMployment (TiM) database was updated in March 2019 to match the 2018 update of the Trade in Value Added database. TiM indicators are available for all OECD, European Union, and G20 economies over the period 2005-2015. Looking ahead, the Trade Committee will continue its work on trade liberalization, trade facilitation, trade in services, digital trade, export credits, barriers to trade, and trade and investment, among other areas.

The OECD Ministerial Council Meeting took place in May 2019 in Paris. USTR participated in the Trade Session of the Ministerial, which focused on international trade and digital innovation.

## 2. Trade Committee Dialogue with Non-OECD Members

The OECD conducts wide-ranging activities to reach out to non-Member countries and economies, business, and civil society, in particular through its series of workshops and "Global Forum" events held around the world each year. Non-Member countries and economies 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 Colombia and Costa Rica invited beginning in 2019 and 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 and economies in 2019. The Committee continued its supportive efforts 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, Asia-Pacific Economic Cooperation (APEC), Association of Southeast Asian Nations (ASEAN), etc.), through the timely use of the Committee's evidence-based analysis and policy insights, remains a priority. In 2019, the OECD finalized a study of services imports, wages and employment in Vietnam. The Trade Committee will continue to build on its relationship with Southeast Asia through means including the extension of key OECD tools and analytics to countries in Southeast Asia not already covered.

The Trade Committee also continued to discuss aspects of its work and issues of concern with representatives of the private sector and civil society, including Members of Business at OECD (formerly Business and Industry Advisory Council) and the 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, regulatory policy, science, employment, education, and financial markets. There are about 200 committees, working groups, and expert groups at the OECD.

# IV. THE WORLD TRADE ORGANIZATION

## A. Introduction

This chapter outlines the work of the World Trade Organization (WTO) in 2019, to include the work of WTO Standing Committees and their subsidiary bodies, WTO Negotiating Groups, the implementation and enforcement of the WTO Agreement, and accessions of new Members.

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 also are supposed to promote transparency in Members' trade policies, and they provide a forum 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. This chapter contains highlights of work carried out in WTO Committees and other bodies including:

- Committee on Agriculture;
- Committee on Market Access;
- Committee on Application of Sanitary and Phytosanitary Measures;
- Committee on Subsidies and Counterveiling Measures;
- Committee on Technical Barriers to Trade;
- Committee on Safeguards;
- Committee on Trade Facilitation; and
- Working Party on State Trading Enterprises.

In terms of WTO negotiations, Members sought to advance work in line with the results from the Eleventh Ministerial Conference (MC11) in Buenos Aires, Argentina in December 2017, with the goal of achieving substantive outcomes prior to the Twelfth Ministerial Conference (MC12) to be held in Nur Sultan, Kazakhstan in June 2020. Negotiations in 2019 have focused on fisheries subsidies; a work program on electronic commerce, including an extension of the moratorium on customs duties on electronic transmissions; and, the advancement of WTO accessions, among other issues. The United States has also worked with like-minded WTO Members to advance plurilateral work on digital trade and contribute to plurilateral discussions on domestic regulations. In Trade Negotiations Committee meetings, the United States has stated clearly 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 Doha Development Agenda (DDA). This chapter also contains highlights of work carried out in WTO Negotiating Groups and plurilateral configurations including:

- Negotiating Group on Rules, Fisheries Subsidies;
- Committee on Agriculture, Special Session;
- Committee on Trade and Development, Special Session;

- Plurilateral work on E-Commerce and Digital Trade;
- Plurilateral work on Domestic Regulation

In 2019, the United States focused on mechanisms to improve the overall functioning of the WTO, to include implementation of existing WTO Agreements.

In looking ahead to the period before the Twelfth Ministerial Conference in 2020, 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. The United States is working through various WTO standing committees to advance reform ideas. Whether the issue is notifications, agriculture, or the digital economy, the WTO will impress capitals and stakeholders most by simply doing rather than posturing for the next Ministerial Conference (MC).

To remain a viable institution that can fulfill all facets of its work, the WTO must focus its work on structural reform, find a means of achieving trade liberalization between Ministerial Conferences, and must adapt to address the challenges faced by traders today.

# B. WTO Negotiating Groups

## 1. Committee on Agriculture, Special Session

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. 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. 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 in Buenos Aires, Argentina in December 2017, Members did not agree to a Ministerial Declaration or any decision on agriculture due to Members' divergent views. The United States provided important leadership, calling for a reset of the agriculture negotiations in light of the fact that Members' agriculture policies and agricultural trade had changed significantly over the previous 15 years.

In 2019, the United States focused agriculture discussions on efforts to improve transparency and discuss issues farmers currently face in agricultural trade. The Chairperson of the Agriculture Negotiations held formal and informal meetings, including a series of monthly technical meetings, in order to enhance Members' understanding of the relevant issues. The United States had focused its analysis and submitted papers on market access issues, while other Members submitted papers on domestic support, export

restrictions, and agricultural safeguards. Members also engaged in technical discussions on special safeguard mechanisms, cotton trade, and public stockholding for food security.

Building on the need for improved transparency of Members' agriculture policies, the United States revised a transparency proposal and presented it to the Council on Trade in Goods in 2019 with the aim of strengthening the effectiveness of the WTO review process, including with respect to commitments under the Agreement on Agriculture. The revised proposal has gained the co-sponsorship of several Members, including: Australia, Argentina, Canada, Chinese Taipei, Costa Rica, the European Union, Japan, and New Zealand. (*For additional information on this proposal, see Section IV.E, Council on Trade in Goods.*)

A major focus in 2020 will be to continue to enhance notifications and transparency to inform discussions about the problems that face agricultural trade today and to consider new ways forward in negotiations on agriculture.

## 2. Council for Trade in Services, Special Session

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

The CTS-SS met in April and September 2019. The focus of the meetings was on submissions by a group of Members proposing discussions on market access for tourism services and environmental services, respectively.

It is possible additional submissions by Members on particular services sectors may be introduced for discussion in 2020.

## 3. Negotiating Group on Rules

In 2017, at the WTO's Eleventh Ministerial Conference in Buenos Aires, Ministers issued a Decision in which they 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 illegal, unreported and unregulated (IUU)-fishing."

Since then, the Rules Negotiating Group (RNG) has met regularly to advance the fisheries subsidies negotiations. In 2019, the RNG met on a monthly basis to continue to negotiate new disciplines on fisheries subsidies and fulfill the ministerial mandate. The United States continued to play a leadership role in the negotiations and to press for ambitious disciplines on fisheries subsidies, which would apply to all Members regardless of development status, in particular those that are the largest producers and subsidizers of marine wild capture fisheries.

In an effort to overcome numerous impasses and Members' defensive concerns, the United States worked actively with other Members to advance the negotiations and find common ground to support a meaningful outcome by the end of the year. In the spring of 2019, to bypass continued abstract debates in the RNG about the role of fisheries management, the United States worked to refocus the negotiations on the actual subsidies being provided with an innovative proposal that would set limits on Members subsidy programs.

The "cap and reduce" proposal, cosponsored with Australia, Argentina and Uruguay, would limit the total value of fisheries subsidies for WTO Members with the largest marine capture production (including China and the EU) and require commitments to reduce subsidy levels from the largest subsidizers, in addition to the strong prohibitions being negotiated on some of the most harmful subsidies, such as those that support illegal, unreported, unregulated (IUU) fishing and fishing on overfished stocks.

The United States also cosponsored new text proposals with Australia, Argentina, Chile, New Zealand, Uruguay, and other countries, including enhanced transparency and notification requirements, and prohibitions on subsidies to vessels determined to be IUU fishing, subsidies contingent on fishing outside the Member's jurisdiction, and subsidies to vessels not flying the Member's own flag. While these proposals directly address the worst forms of industrial fishing subsidies, Members at all levels of development continued to press for exceptions and other carve-outs from the prohibitions.

This next year will be critically important for the work of the RNG in order to fulfill Ministers' instructions to deliver an outcome on fisheries subsidies by the next Ministerial Conference, scheduled for June 2020. The United States will continue to engage actively and constructively in the negotiations to discipline harmful fisheries subsidies, to ensure that the disciplines are effective in addressing the subsidies that most drive overfishing or support IUU fishing. The United States also will continue to advocate for enhanced transparency and notification of fisheries subsidy programs, both in the SCM Committee and in the RNG.

## 4. Dispute Settlement Body, Special Session

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) would be extended by one year (*i.e.*, to aim to conclude the work by May 2004 at the latest); (2) this continued work would 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 would 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.

Over the course of the DSB-SS, the United States has advanced two proposals. One would expand transparency and public access to dispute settlement proceedings, including by opening WTO dispute settlement proceedings to the public as the norm and giving 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. transparency proposal also calls on WTO Members to consider rules for *amicus curiae* submissions, submissions by nonparties to a dispute. WTO rules currently do not provide guidelines on how *amicus* submissions are to be considered.

In 2003, the United States and Chile submitted a proposal to improve the effectiveness of WTO dispute settlement in resolving trade disputes among Members. The joint proposal contained procedural tools aimed at giving parties to a dispute more control over the process and greater flexibility to settle disputes.

As part of this proposal, in 2005 the United States also proposed interpretive guidance for WTO Members to provide to WTO adjudicators in areas where important questions have arisen in the course of various disputes.

The DSB-SS met seven times during 2019. 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 had 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 July 2019, the Chair issued a report on the activities of the DSB-SS from November 2016 to July 2019, which includes the Chair's summary of the discussions of the issues by Members.

In 2020, Members will continue to work to complete the review of the DSU. Members will be meeting to review the DSU in different configurations over the course of 2020.

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

In 2019, the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) Special Session held two informal consultations to exchange views regarding the negotiations on the establishment of a multilateral system of notification and registration of geographical indications (GI) for wines and spirits. There were no material developments during 2019.

In 2019, the United States and a group of other Members (the Joint Proposal group[20]) continued to maintain their position that the establishment of a multilateral system for notification and registration of geographical indications for wines and spirits must: (1) be voluntary and have no legal effects for non-participating members; (2) be simple and transparent; (3) respect different systems of protection of geographical indications (GIs); (4) respect the principle of territoriality; (5) preserve the balance of the Uruguay Round; and, (6) consistent with the mandate, be limited to the protection of wines and spirits. 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 Joint Proposal group supports a process under which Members would voluntarily notify the WTO of their GIs for wines and spirits for incorporation into a registration system.

If discussions resume in 2020, 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 and will continue to pursue additional support for the Joint Proposal in the coming year.

[20] The Members of this group include the United States, 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.

## 6. Committee on Trade and Development, Special Session

The Special Session of the Committee on Trade and Development (CTD-SS) was established by the Trade Negotiations Committee in February 2002 to review all WTO special and differential treatment (S&D) provisions 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. The 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, the so-called "Cancun 28". Although these proposals were intended 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 least-developed countries (LDCs); Trade-Related Investment Measures; and flexibility for LDCs that have difficulty implementing their WTO obligations. The decisions on these proposals are contained in Annex F of the Hong Kong Ministerial Declaration. There has never been agreement on any of the remaining ASPs.

The Chair undertook a series of informal consultations in the first half of 2019 with Members to discuss a path forward for the CTD-SS. Members expressed disparate views, and no consensus was reached.

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. Although this disagreement will not be resolved in the CTD-SS, it is certain to affect any attempt to undertake work in this body.

## 7. Negotiating Group on Non-Agricultural Market Access

The Non-Agricultural Market Access negotiations have remained at an impasse since the WTO's Eighth Ministerial Conference in Geneva in 2011, and there were no meetings of the Negotiating Group on Market Access in 2019. The United States continues to seek credible approaches to broad and meaningful trade liberalization for industrial goods.

# C. Work Programs Established in the Doha Development Agenda

## 1. Working Group on Trade, Debt, and Finance

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 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.

USTR participated in the two WGTDF meetings in 2019, one in June and one in October. The discussion at both meetings focused on trade finance and small and medium-sized enterprises (SMEs).

For more information on the Working Group on Trade, Debt, and Finance, see the 2019 Annual Report.

## 2. Working Group on Trade and Transfer of Technology

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. The timeline for completing this work has been subject to several extensions by Ministers.

USTR participated in two meetings of the WGTTT during 2019. WTO Members continued their consideration of the relationship between trade and transfer of technology and of any possible recommendations. However, the working group did not reach any conclusions on these issues.

For more information on the Working Group on Trade and Transfer of Technology, see the 2019 Annual Report.

## 3. Work Program on Electronic Commerce

In 2019, Members engaged in several dedicated discussions on electronic commerce issues, both in the context of the Work Program on Electronic Commerce and informal sessions involving outside experts. (*Further information on that initiative can be found in Section III.D, Promoting Digital Trade and Electronic Commerce.)*

The longstanding WTO moratorium on customs duties on electronic transmissions was scheduled to expire in December 2019. With this is mind, the Work Program on Electronic Commerce convened on several occasions in 2019 to examine the revenue implications of this moratorium. Despite strong evidence, presented in this forum, that terminating the moratorium could have a deleterious impact on WTO Member economies, significantly outweighing any marginal customs revenue increases, several Members were unwilling to support an extension beyond the June Ministerial.

The Work Program on Electronic Commerce will hold additional, dedicated discussions in 2020 to examine the implications of extending the customs duties moratorium. These discussions will aim to prepare Members to address this issue in the June Ministerial, when the status of the moratorium will again have to be decided.

# 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 expected 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 Agreement, 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.

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 2019, 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, 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. USTR participated in all General Council meetings and consultations in order to advance U.S. interests at the WTO.

For more information on the General Council, see the 2019 Annual Report.

# E. Council for Trade in Goods

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.

In 2019, the CTG held three formal meetings, in April, June, and November. For more information on the Council for Trade in Goods, see the 2019 Annual Report.

## 1. Committee on Agriculture

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

Since its inception, the CoA 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 AoA, Members agreed to provide notifications of progress in meeting their commitments in agriculture, and the CoA has met frequently to review the notifications and monitor activities of Members to ensure that trading partners honor their commitments.

In 2019, USTR participated in three formal meetings, in February, June, and October, to review progress on the implementation of commitments negotiated in the Uruguay Round and raise 131 questions (or sets of questions) to other Members. The United States also took steps to improve transparency by submitting, jointly with Australia and Canada, its third CoA counter notification addressing India's market price support for pulses. USTR also participated in several informal meetings to review the implementation of the

decision at the 2015 Nairobi Ministerial Conference to eliminate export subsidies for agricultural products, and to review the decision at the 2013 Bali Ministerial Conference on Tariff Rate Quota Administration. The United States also engaged in the CoA's discussion on enhancing transparency and the CoA review process.

For more information on the Committee on Agriculture, see the 2019 Annual Report.

## 2. Committee on Market Access

The Committee on Market Access (MA Committee) is responsible for the implementation of concessions related to tariffs and non-tariff measures that are not explicitly covered by another WTO body. The MA Committee's work includes the verification of new concessions on market access in the goods area, the monitoring of quantitative restrictions on goods, and the operation of the WTO's Integrated Data Base (IDB) of tariff and trade data. The MA Committee also provides a forum for Members to address market access issues they find problematic, to exchange information and clarify issues, and to aim to resolve trade concerns.

In 2019, USTR participated in three formal meetings of the MA Committee to raise specific market access concerns with Angola, the European Union, the members of the Gulf Cooperation Council, India, Indonesia, and the United Kingdom. USTR also used the formal meetings to stress the importance of timely and complete notifications of Members' quantitative restrictions. During the year, USTR helped to streamline and modernize the modalities by which Members submit their annual tariff and trade data to the WTO through an improved IDB Decision. This modernization will increase transparency by making more data available to other Members, traders, and the public.

USTR also participated in several informal meetings of the MA Committee to review technical transpositions of Members' tariff schedules to ensure tariff commitments are maintained as schedules are updated and modernized.

For more information on the Committee on Market Access, see the 2019 Annual Report.

## 3. Committee on the Application of Sanitary and Phytosanitary Measures

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 Special & Differential Treatment (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: Codex; the United Nations Food and Agriculture Organization;; the Inter-American Institute for Cooperation on Agriculture; the International Trade Center; the IPPC; the OIE; the World Bank; and the World Health Organization.

In 2019, the United States raised concerns regarding specific SPS measures proposed or maintained by other Members, including EU measures related to pesticide maximum residue levels and veterinary medicines. The United States also participated in informal meetings of the Committee to discuss proposals under the Committee's Fifth Review of the Operation and Implementation of the SPS Agreement.

For more information on the SPS Committee, see the 2019 Annual Report.

## 4. Committee on Trade-Related Investment Measures

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 CTG 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.

In 2019 the TRIMS Committee held two formal meetings, in June and November, during which the United States and other Members continued to discuss particular Members' local content measures of concern to the United States. Key issues related to the proliferation of local content measures by Indonesia, measures by the Russian Federation relating to SOE purchases, and cybersecurity measures in China that appear to require the acquisition of domestically produced technology and software.

For more information on the Committee on Trade-Related Investment Measures, see the 2019 Annual Report.

## 5. Committee on Subsidies and Countervailing Measures

The Subsidies and Countervailing Measures (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.

The Committee on Subsidies and Countervailing Measures (the SCM Committee) held two regular meetings and two special meetings in 2019, in April and November. Particularly noteworthy was an agenda item sponsored by the United States, the European Union, and others on the topic of how government subsidies have led to overcapacity in certain sectors and the need to develop stronger and more effective subsidy rules to confront this problem.

For more information on the Committee on Subsidies and Countervailing Measures, see the 2019 Annual Report.

## 6. Committee on Customs Valuation

The Agreement on the Implementation of GATT Article VII, commonly referred to as the Customs Valuation Agreement (CVA), ensures that determinations of customs value for the calculation of duties on imported products are made in a fair, neutral, and uniform manner, precluding the use of arbitrary or fictitious values. The CVA prevents market access opportunities achieved through tariff reductions from being negated by unwarranted and unreasonable "uplifts" in the customs value of goods, which would otherwise increase total import duties.

In 2019, the United States participated in two formal meetings of the Committee on Customs Valuation (CCV). The United States raised concerns on behalf of U.S. exporters across all sectors that have experienced difficulties with foreign customs agencies' application of their customs valuation and preshipment inspection regimes. In addition, the United States presented at the CCV's "Experience-Sharing Workshop on Implementation of the Customs Valuation Agreement and Ensuring that the Trade Facilitation Agreement supports implementation of the CVA, including Technical Assistance and Capacity Building." The United Sates emphasized the importance of transparency and notifications and the synergy between the CVA and the Trade Facilitation Agreement.

As of October 25, 2019, 102 Members have notified their national legislation on customs valuation and 73 Members have provided responses to the "Implementation and Administration of the Agreement on Customs Valuation" checklist of issues. The United States continued to request that all Members fulfill these notification requirements for the proper functioning of the CVA.

For more information on the Committee on Customs Valuation, see the 2019 Annual Report.

## 7. Committee on Rules of Origin

The Agreement on Rules of Origin (ROO Agreement) is administered by the Committee on Rules of Origin (ROO Committee), which held meetings in May and October of 2019. The Committee 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.

In 2019, the ROO Committee held dedicated discussions on preferential rules of origin for LDCs, in light of the outcomes of the 2013 Bali and 2015 Nairobi Ministerial Decisions on this issue. The ROO Committee also discussed a proposal to enhance transparency of non-preferential rules of origin.

For more information on the Committee on Rules of Origin, see the 2019 Annual Report.

## 8. Committee on Technical Barriers to Trade

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 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.

In 2019, USTR participated in three formal and one informal TBT meetings, in March, June, September, and November, focused on raising specific trade concerns and implementing the Committee's work plan as laid out in the Eighth Triennial Review of the TBT Agreement. The Committee held thematic discussions on transparency, conformity assessment, good regulatory practices and standards. The Committee made two formal decisions this year. One on revising the TBT Committee's addenda notification format, which will make it easier for Members to notify final regulation. The TBT Committee revised its agenda to prioritize discussion of proposed measures over final measures and to better identify final measures.

For more information on the Technical Barriers to Trade Committee, see the 2019 Annual Report.

## 9. Committee on Antidumping Practices

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).

In 2019, USTR participated in two Antidumping Committee meetings, in May and November.

For more information regarding the Antidumping Committee, see the 2019 Annual Report.

## 10. Committee on Import Licensing

The Committee on Import Licensing (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.

In 2019 USTR participated in two formal committee meetings, in April and October, to discuss the current state of notifications and to raise specific concerns with licensing in Burma, China, Dominican Republic, Egypt, Ghana, India, and Indonesia. USTR continued to stress the importance of timely and complete notifications and Member transparency within the Committee. Additionally, USTR participated in two informal meetings to examine notification compliance and identify process improvements in submitting notifications to the Committee Secretariat.

For more information on the Committee on Import Licensing see the 2019 Annual Report.

## 11. Committee on Safeguards

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.

In 2019, USTR participated in the May and November Safeguards Committee meetings.

For more information regarding the Safeguards Committee, see the 2019 Annual Report.

## 12. Committee on Trade Facilitation

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. As of December 2019, 148 of the 164 WTO Members have ratified the TFA. 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 brings improved transparency and an enhanced rules-based approach to border regimes, and is an important element of broader 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.

In 2019 USTR participated in three formal and informal meetings, in February, June, and October, that focused on reviewing section II notifications submitted by developing countries setting forth implementation dates and capacity building needs for implementation. The Committee also focused on experience sharing and held a dedicated session on special and differential treatment on the margins of the October meeting. The United States notified an updated Article 22 notification, shared a paper regarding Article 1 of the TFA, and shared a paper on the TFA and agricultural trade.

For more information on the Committee on Trade Facilitation, see the 2019 Annual Report.

### 13. Working Party on State Trading Enterprises

Article XVII of the GATT 1994 requires Members, *inter alia*, to ensure that state trading enterprises (STEs), as defined in that Article, act in a manner consistent with the general 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 a state trading enterprise 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.

In 2019, USTR participated in two WP-STE meetings, in July and November.

For more information regarding the Working Party on State Trading Enterprises, see the 2019 Annual Report.

## F. Council for Trade-Related Aspects of Intellectual Property Rights

The WTO Council for Trade-Related Aspects of Intellectual Property Rights (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, industrial designs, patents, integrated circuit layout designs, and undisclosed information. The TRIPS Agreement also establishes minimum standards for the enforcement of intellectual property rights through civil actions for infringement, actions at the border and, at least with respect to copyright piracy and trademark counterfeiting, in criminal actions.

In 2019, USTR participated in three formal meetings, in February, June, and October.

For more information on the TRIPS Council, see the 2019 TRIPS Council Annual Report.

# G. Council for Trade in Services

The Council for Trade in Services (CTS) oversees implementation of the General Agreement on Trade in Services (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 China's Protocol of Accession; 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.

In 2019, USTR participated in three formal CTS meetings, in March, June, and October, including a workshop on the operationalization of the LDC services waiver in October 2019.

In addition to technical review of the implementation of various articles of the GATS, the CTS also examines issues under the Work Programme on Electronic Commerce. Members, including the United States, briefed the Council on technical assistance being carried out in this area. Also under this agenda item, the United States submitted a paper that demonstrated the importance of cross-border data flows to increased trade. The paper sought to complement the ongoing negotiations on digital trade in the WTO. In addition, at the request of the United States and Japan, the Council continued to discuss cybersecurity measures of China and Vietnam. Several Members joined the discussion to express concern about such measures and their potentially adverse effect on trade.

For more information on the Council for Trade in Services, see the 2019 Council Annual Report.

## 1. Committee on Trade in Financial Services

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.

In 2019, USTR participated in one formal CTFS meeting to discuss a proposal from China for a thematic seminar on technologies used to automate and improve delivery of financial services. It was agreed to hold that seminar in 2020. It will focus on trade, financial inclusion, and development. No other issues have been identified for work under this Committee.

For more information on the Committee on Trade in Financial Services, see the 2019 Committee Annual Report.

## 2. Working Party on Domestic Regulation

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.

The WPDR met twice, in March and December 2019. At the March meeting, India presented a revised proposal that focused on disciplined on application procedures for temporary entry of service suppliers. Although some Members supported this approach, many others, including the United States, did not support this focus, and expressed doubt that such a politically sensitive issue could gain consensus.

For more information on the Working Party on Domestic Regulation, see the 2019 Committee Annual Report.

In addition to the work within the WPDR, a group of Members met throughout 2019 in informal open-ended sessions to continue negotiation of a text of disciplines on authorization requirements and procedures for service suppliers and technical standards on services. This "joint statement initiative" is based upon the Joint Ministerial Statement on Services Domestic Regulations (WTO document WT/MIN(17)/61) as complemented during 2019 by a second Ministerial Statement (WT/L/1059) urging a completion of work by the Twelfth WTO Ministerial Conference in June 2020. Although not a signatory to the Joint Ministerial Statement, the United States has participated in these informal open-ended sessions with the goal of ensuring that any resulting text is consistent with U.S. policy objectives, including respecting the right of WTO Members to regulate, as recognized in the GATS. Discussion will continue during 2020 on the basis of text being discussed in the informal open-ended sessions in the run-up to the Twelfth Ministerial Conference.

### 3. Working Party on GATS Rules

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 under GATS Articles X, XIII and XV, respectively. The WPGR did not meet during 2019. The last meeting of the WPGR was held in 2016.

For more information on the Working Party on GATS Rules, see the 2019 Committee Annual Report.

### 4. Committee on Specific Commitments

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.

In 2019, USTR attended three formal meetings of the CSC. Substantive discussions were held on scheduling issues related to mode 4 including economic needs tests or labor market tests, categories of natural persons in schedules, and the relationship between horizontal and sectoral commitments.

For more information on the Committee on Specific Commitments, see the 2019 Committee Annual Report.

## 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 Dispute Settlement Body (DSB), which consists of representatives of the entire membership of the WTO and is empowered to establish dispute settlement panels, adopt panel and Appellate Body reports, oversee the implementation of panel recommendations adopted by the DSB, and

authorize retaliation. The DSB makes all its decisions by consensus unless the WTO Agreement provides otherwise.

**Major Issues in 2019**

The DSB met 15 times in 2019 to oversee disputes, to address issues such as U.S. systemic concerns with Appellate Body overreaching and proposals to appoint members to the Appellate Body, and to consider proposed 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 General Agreement on Tariffs and Trade (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 2019, 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 III. The list in the roster notes the areas of expertise of each roster member (goods, services, 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 2019.

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) members of the Secretariat supporting 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*

In 2019, the United States made a series of statements at DSB meetings explaining that, for more than 16 years and across multiple U.S. Administrations, the United States has been raising serious concerns with the Appellate Body's disregard for the rules set by WTO Members and adding to or diminishing rights or obligations under the WTO Agreement.[21] Many WTO Members share these concerns, whether on the mandatory 90-day deadline for appeals, review of panel fact finding, issuing advisory opinions on issues not necessary to resolve a dispute, the treatment of Appellate Body reports as precedent, or persons serving on appeals after their term has ended. The United States has also explained that when the Appellate Body abused the authority it had been given within the dispute settlement system, it undermined the legitimacy of the system and damaged the interests of all WTO Members who cared about having the agreements respected as they had been negotiated and agreed. If WTO Members support a rules-based trading system, then the Appellate Body must follow the rules to which WTO Members agreed in 1995.

For many years, the United States and other WTO Members have raised repeated concerns about appellate reports going far beyond the text setting out WTO rules in areas as varied as subsidies, antidumping and countervailing duties, standards under the TBT Agreement, and safeguards. Such overreach restricts the ability of the United States to regulate in the public interest or protect U.S. workers and businesses against unfair trading practices.

As a result, the United States was not prepared to agree to launch the process to fill vacancies on the WTO Appellate Body without WTO Members engaging with and addressing these critical issues.

In 2019, six appellate reports were issued in the following disputes: (1) a challenge by Turkey to Morocco's antidumping duties on steel products; (2) a challenge by Russia to Ukraine's antidumping duties on ammonium nitrate; (3) a challenge by Japan to Korea's antidumping duties on pneumatic valves; (4) a challenge by China to certain U.S. countervailing duty measures; (5) a challenge by Japan to Korea's import bans and testing and certification requirements for radionuclides; and (6) a challenge by the European Union to U.S. subsidies to large civil aircraft. In the disputes in which it was not a party, the United States participated as a third party.

*Dispute Settlement Activity in 2019*

During the DSB's first 24 years in operation, WTO Members filed 593 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, 18 in 2017, 39 in 2018, and 19 in 2019). During that period, the United States filed 121 complaints against other Members' measures and received 151 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 2019.

A description of those disputes in which the United States was a complainant or defendant during the past year can be found in Section II.D on WTO Dispute Settlement.

[21] See, *e.g.*, Minutes of the DSB meeting held on Oct. 29, 2019 (WT/DSB/M/433).

**Prospects for 2020**

In 2020, the United States expects the DSB to continue to focus on the administration of the dispute settlement process in the context of individual disputes. The United States will continue to raise its systemic concerns with Appellate Body overreaching and press for WTO Members to take responsibility to ensure the WTO dispute settlement system operates as intended and agreed in the DSU. The United States will press for reform of the WTO dispute settlement system as part of its efforts to reform the WTO to ensure its proper functioning. The United States will employ its experience with the WTO dispute settlement system into U.S. litigation and negotiation strategies for enforcing U.S. rights. The United States will continue to work with other WTO Members to achieve greater transparency in WTO dispute settlement proceedings.

# I. Trade Policy Review Body

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 "Documents Online" database under the document symbol "WT/TPR."

Trade Policy Reviews (TPRs) of Least Developed Country (LDC) Members often perform a technical assistance function, helping them improve their understanding of their trade policy structure's relationship with the WTO agreements. The reviews have also enhanced these countries' understanding of the WTO agreements, thereby better enabling them to comply and integrate into the multilateral trading system. In some cases, the reviews have spurred better interaction among government agencies. The wide coverage provided by Secretariat's and Members' reports 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.

While each review highlights the specific issues and measures concerning the individual Member, common themes that typically emerge during the course of the reviews include:

- 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.

During the 2019 review cycle, the TPRB conducted 12 reviews: Bangladesh; Canada; Costa Rica; the members of the East African Community (EAC): Burundi, Kenya, Rwanda, Tanzania, and Uganda; Ecuador; Lao People's Democratic Republic, Peru; Papua New Guinea; Samoa; Suriname; North Macedonia; and Trinidad and Tobago. By the end of the 2019 cycle, the TPRB had conducted 501 reviews since its inception in 1989, taking place over the course of 389 review meetings and covering 157 out of 164 WTO members.

For more information on the 2019 TPR cycle, see the 2019 TPRB Annual Report.

# J. Other General Council Bodies and Activities

## 1. Committee on Trade and Environment

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.

In 2019, the Committee met twice. The United States worked to advance trade in sustainable materials, establishing a framework for WTO Members to begin to understand and analyze the effects of non-tariff barriers on circular economy production models. The United States also promoted future WTO efforts to analyze how trade facilitation measures focused on recyclable materials and products could catalyze sustainable supply chains globally.

For more information on the Committee on Trade and Environment, see the 2019 Annual Report.

## 2. Committee on Trade and Development

The Committee on Trade and Development (CTD) addresses trade issues of interest to Members with a particular emphasis on 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 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 least-developed countries (LDCs), landlocked developing countries, and small economies.

The CTD has been the primary forum for discussion of broad issues related to the nexus between 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, and the WTO's technical assistance and capacity building activities.

The CTD in regular session held three formal sessions in April, June, and November 2019. USTR used these meetings to encourage necessary but difficult conversations amongst Members on issues pertaining to trade and development.

For more information on the Committee on Trade and Development and its subsidiary bodies, see the 2019 Annual Report.

## 3. Committee on Balance-of-Payments Restrictions

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.

No WTO Members attempted to use GATT disciplines as a justification for balance-of-payments-related trade measures in 2019. As a result, the Committee did not meet other than to approve a chairperson and adopt its annual report.

For more information on the Committee on Balance-of-Payments, see the 2019 Annual Report.

## 4. Committee on Budget, Finance and Administration

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 ninth 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 2019 budget, the U.S. assessed contribution was 11.59 percent of the total budget assessment, or CHF 22,660,405 (about $23.5 million).

*Details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget* can be found in *Annex III, Background Information on the WTO.*

## 5. Committee on Regional Trade Agreements

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, and considering the systemic implications of such agreements and regional initiatives for the multilateral trading system.

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 V *bis* 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.

The CRTA met four times in 2019 (in April, June, September and November). USTR used the opportunity of these meetings to push for transparency from Members on their regional and bilateral trade agreements.

For more information on the Committee on Regional Trade Agreements, see the 2019 Annual Report.

## 6. Accessions to the World Trade Organization

There are 22 applicants for WTO Membership. Of these 22 applicants,[22] 11 were engaged in the WTO accession process at some point during 2019. Five applicants provided the technical inputs necessary to convene formal meetings of their respective Working Parties (WP). The WP for The Bahamas convened in April; the WP for Belarus met in February and July; and, the WP for South Sudan convened in March. In July, Uzbekistan submitted a revised Memorandum of Foreign Trade Regime (MFTR), which is required for the WP to restart work. Uzbekistan received comments and questions from WP Members in August. In December, Ethiopia submitted inputs that will enable the WP to convene for the first time since 2012.

As of the end of 2019, four applicants (Azerbaijan, Bosnia and Herzegovina, Comoros, and Sudan) appeared to be taking steps internally to restart work on their accession processes. Bosnia and Herzegovina's accession process is advanced and could finish relatively quickly once its outstanding market access negotiation is concluded. In addition, Equatorial Guinea and Timor-Leste are working on their respective MFTRs.

Of the remaining 11 WTO accession applicants, four (Libya, Sao Tome and Principe, Somalia, and Syria) had not submitted the initial documents describing their respective foreign trade regimes as of the end of 2019. As a result, negotiations on their accessions had not commenced. Accession negotiations with the other seven applicants (Algeria, Andorra, Bhutan, Iran, Iraq, Lebanon, and Serbia) remained dormant in 2019.

[22] 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 eight countries marked with an asterisk are LDCs.)

In 2020, the General Council will consider the government of Curaçao's request to begin the accession process as an autonomous country and separate customs territory within the Kingdom of the Netherlands.

*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 when it becomes a Member, to encourage trade liberalization and market-oriented policies 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 U.S. Department of Agriculture, 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), 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, Russian Federation, 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, in 2018-2019, Afghanistan, Armenia, Georgia, Jordan, Kazakhstan, Lao PDR, Moldova, Ukraine, and Vietnam continued to receive assistance with implementing their membership commitments.

# K. Plurilateral Agreements

## 1. Committee on Trade in Civil Aircraft

The Agreement on Trade in Civil Aircraft (Aircraft Agreement) entered into force on January 1, 1980, and is one of four WTO plurilateral agreements that are in force only for those WTO Members who have accepted it.[23]

The Aircraft Agreement requires Signatories to eliminate tariffs on civil aircraft, engines, flight simulators, and related parts and components; as well as 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, Egypt, the European Union (the following 20 EU Member States are also signatories in their own right: Austria; Belgium; Bulgaria;

[23] 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.

Denmark; Estonia; France; Germany; Greece; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; the Netherlands; Portugal; Romania; Spain; Sweden and the United Kingdom) 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, Mauritius, Nigeria, Oman, the Russian Federation, Saudi Arabia, Singapore, South Korea, Sri Lanka, Chinese Taipei, Tajikistan, Trinidad and Tobago, Tunisia, Turkey, and Ukraine. The International Monetary Fund and the United Nations Conference on Trade and Development are also observers.

In 2019, USTR participated in one formal Committee meeting to discuss the implementation of the Protocol adopted in November 2015 that updated the product list of the Aircraft Agreement to be compatible with the 2007 version of the Harmonized System. Additionally, USTR participated in informal consultations held by the Chair on future product list updates.

For more information on the Committee on Trade in Civil Aircraft, see the 2019 Committee Annual Report.

## 2. Committee on Government Procurement

The WTO Government Procurement Agreement (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-eight WTO Members are parties to the GPA: Armenia; Australia; Canada; the EU and its 28 Member States[24]; Hong Kong, China; Iceland; Israel; Japan; Liechtenstein; Moldova; Montenegro; the Netherlands with respect to Aruba; New Zealand; Norway; Singapore; South Korea, Switzerland; Chinese Taipei; Ukraine; and the United States (collectively the GPA Parties).

In 2019, USTR participated in four formal and informal GPA meetings (in February, June, October, and December) focused on accessions and Work Programs. The GPA Committee held further discussions at the informal meetings on the accessions to the GPA of China, the Kyrgyz Republic, North Macedonia, the Russian Federation, Tajikistan, and the United Kingdom.

For more information on the Committee on Government Procurement, see the 2019 Committee Annual Report.

## 3. The Information Technology Agreement and the Expansion of Trade in Information Technology Products

The ITA[25] 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, among these: 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.

[25] More formally known as the "WTO Ministerial Declaration on Trade in Information Technology Products" (WT/MIN(96)/16).

In 2019, USTR participated in two formal ITA Committee meetings in May and October 2019.[26] In those meetings, the ITA Committee continued to focus on the status of implementation, as well as reducing divergences of certain product classifications and reviewing the ITA tariff commitments of accession candidates. USTR also participated in bilateral meetings with ITA accession candidates, including Belarus and Bosnia Herzegovina.

For more information on the ITA Committee, see the 2019 Committee Annual Report.

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 in 2016. 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.

In 2019, the Parties continued to implement the ITA Expansion.[27] The fourth set of reductions took place on July 1, 2019, eliminating tariffs on 95.4 percent of covered products. For a very limited number of sensitive products, tariffs will continue to be phased out over a period of five or seven years and will be eliminated in 2021 and 2023, respectively. In addition, the majority of Parties have submitted, in accordance with the relevant WTO procedures,[28] modifications to their WTO tariff schedules of concessions, which will incorporate these duty-free tariff commitments into their overall WTO tariff commitments.

The ITA Committee does not cover the ITA Expansion Agreement; however, the ITA Expansion Parties met periodically in 2019 and provided regular updates to the ITA Committee on the status of implementation.

[26] The minutes of these Committee meetings are contained in WTO Documents G/IT/M/70 and G/IT/M/71.
[27] "Declaration on the Expansion of Trade in Information Technology Products" (WT/L/956).
[8] The relevant procedures are detailed in the "Decision on 26 March 1980 on Procedures for Modification and Rectification of Schedules of Tariff Concessions" (BUSD 27S/25).

# V. TRADE POLICY DEVELOPMENT

## A. Policy Coordination

The Office of the United States Trade Representative (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), both administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups central to this process. The TPSC is the first-line operating group, with representation at the senior civil servant level. Supporting the TPSC are 93 subcommittees responsible for specialized issues. The TPSC regularly seeks advice from the public on policy decisions and negotiations through *Federal Register* notices and public hearings. In 2019, the TPSC held 11 public hearings: the Negotiating Objectives for the United States-United Kingdom Trade Agreement (January 2019); the Special 301 Review (February 2019); the Enforcement of U.S. WTO Rights in Large Civil Aircraft Dispute (May and August 2019); the China Section 301 Investigation (June 2019); the Section 301 Investigation of France's Digital Services Tax (August and December 2019); the Generalized System of Preferences product and country eligibility reviews (July 2019); the African Growth and Opportunity Act annual country eligibility review (August 2019); China's Compliance with its WTO Commitments (October 2019); and, Russia's Implementation of the WTO Commitments (October 2019).

Through the interagency process, USTR requests input and analysis from members of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of the subcommittee or task force are presented to the full TPSC and serve as the basis for reaching interagency consensus. In cases where the TPSC does not reach agreement on a topic, or if the issue under consideration involves particularly significant policy questions, the TPSC refers the issue to the TPRG (whose membership is at the Deputy USTR/Under Secretary level), or to Cabinet Principals.

The Office of the U.S. Trade Representative chairs the TPSC and the TPRG. The other 20 voting 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. USTR may invite representatives of other agencies to attend meetings depending on the specific issues discussed.

## B. Public Input and Transparency

Reflecting Congressional direction and to draw advice from the widest array of stakeholders including business, labor, agriculture, civil society, and the general public, USTR has broadened opportunities for

public input and worked to ensure the transparency of trade policy through various initiatives carried out by USTR's Office of Intergovernmental Affairs and Public Engagement (IAPE).

IAPE works with USTR's Offices of Public and Media Affairs and Congressional 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; providing regular data updates to help the public understand and evaluate the role of trade; 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 affect them or touch upon state and local government policies. 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 the U.S. Trade Representative to appoint a senior agency official to serve as Chief Transparency Officer (CTO), 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 U.S. Trade Representative has designated Ambassador C.J. Mahoney, Deputy United States Trade Representative for Investment, Services, Labor, Environment, Africa, China, and the Western Hemisphere, as Chief Transparency Officer. By elevating the Chief Transparency Officer to a presidentially appointed, Senate confirmed post, the Administration is promoting stronger accountability and facilitating closer coordination with Congress.

- *Consultation with Congress:* To broaden access to negotiating texts and further encourage Congressional participation, USTR 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 staffers with appropriate clearances who work in the office of a Member of the Committees on Finance and Ways and Means, and to those staffers who work in the personal offices of a 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 2019, USTR published approximately 66 *Federal Register* notices to solicit public comment on negotiations and policy decisions on a wide range of issues, including the annual Special 301 review including the Out-of-Cycle Review of Notorious Markets, the United States-Mexico-Canada Agreement, the China 301 Investigation, the Section 201 proceeding regarding large residential washers, the Section 201 proceeding involving solar products, and other topics. Public comments received in response to *Federal Register* Notices are available for inspection online.

USTR also held public hearings regarding a variety of trade policy initiatives, including unprecedented public hearings on the United States-United Kingdom Trade Agreement, China Section 301 Investigation Tariff Lists, French Digital Services Tax, and other topics. These hearings were web-cast live, and the submissions of all parties are posted online.

### Open Door Policy

USTR officials, including the U.S. Trade Representative, and professional staff from regional, functional, and multilateral offices as well as IAPE, conduct outreach with a broad array of stakeholders, including agricultural commodity groups and farm associations, labor unions, environmental organizations, consumer groups, large and small businesses, trade associations, consumer advocacy groups, 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 26 advisory committees, with a total membership of up to approximately 700 advisors. Advisory committee members represent the full span of interests, including manufacturing; agriculture; digital trade; intellectual property; services; small businesses; labor; environmental, consumer and public health organizations; and state and local governments. 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 is organized into three tiers: the President's Advisory Committee for Trade

Policy and Negotiations (ACTPN); five policy advisory committees, dealing with environment, labor, agriculture, Africa, and state and local governments; and 20 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.

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 and to represent new interests and fresh perspectives, and USTR continues exploring ways to expand 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., as well as in conference call meetings, to provide input and advice to USTR and other agencies. Members pay for their own travel and related expenses.

**Tier I: President's Advisory Committee on Trade Policy and Negotiations**

As the highest-level committee in the system, the President's Advisory Committee on Trade Policy and Negotiations (ACTPN) examines U.S. trade policy and agreements from the broad context of the overall national interest. The ACTPN consists of no more than 45 members, who are broadly representative of the key economic sectors of the economy affected by trade, including non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. The President appoints ACTPN members to four-year terms not to exceed the duration of the charter.

A current roster of ACTPN members and the interests they represent is available on the USTR website.

**Tier II: Policy Advisory Committees**

Members of the five policy advisory committees are appointed by USTR or in conjunction with other Cabinet officers. The Intergovernmental Policy Advisory Committee 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. The Agricultural Policy Advisory Committee (APAC) and the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC) are managed jointly with, respectively, the U.S. Departments of Agriculture and Labor. 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*

The Agricultural Policy Advisory Committee (APAC) is designed to represent a broad spectrum of agricultural interests including the interests of farmers, ranchers, processors, renderers, and public

advocates, 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 40 members to four-year terms.

*Intergovernmental Policy Advisory Committee on Trade*

The Intergovernmental Policy Advisory Committee on Trade (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*

The Labor Advisory Committee (LAC) consists of not more than 30 members from the U.S. labor community, appointed by the U.S. Trade Representative and the U.S. 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*

Trade Advisory Committee on Africa (TACA) consists of not more than 30 members, including, but not limited to, representatives from industry, labor, investment, agriculture, services, academia, and nonprofit 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*

The Trade and Environment Policy Advisory Committee (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.

**Tier III: Technical and Sectoral Committees**

The 20 technical and sectoral advisory committees are organized into two areas: agriculture and industry. Representatives are appointed jointly by USTR and the U.S. Secretaries of Agriculture or Commerce, respectively. Each sectoral or technical committee represents a specific sector, commodity group, or functional area and provides specific technical advice concerning the effect that trade policy decisions may have on its sector or issue.

*Agricultural Technical Advisory Committees*

There are six Agricultural Technical Advisory Committees (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 discretion 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.

*Industry Trade Advisory Committees)*

There are 14 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); Forest Products, Building Materials, Construction and Nonferrous Metals (ITAC 5); Energy and Energy Services (ITAC 6); Steel (ITAC 7); Digital Economy (ITAC 8); Small and Minority Business (ITAC 9); Services (ITAC 10); Textiles and Clothing (ITAC 11); Customs Matters and Trade Facilitation (ITAC 12); Intellectual Property Rights (ITAC 13); and, Standards and Technical Trade Barriers (ITAC 14).

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 suppliers, 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.

## 4. State and Local Government Relations

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

**State Single Point of Contact System and IGPAC**

*State Single Point of Contact System*

For day-to-day communications, USTR operates a State Single Point of Contact (SPOC) system. The Governor's office in each state designates a single contact point to disseminate information received from

USTR to relevant state and local offices and assist in relaying specific information and advice from the states to USTR on trade-related matters. Through the SPOC network, state governments are promptly informed of Administration trade initiatives so that they can provide companies and workers with information in order to take full advantage of increased foreign market access and reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which may affect them.

*Intergovernmental Policy Advisory Committee on Trade*

Additionally, USTR works closely with the Intergovernmental Policy Advisory Committee on Trade (IGPAC) made up of various state and local officials. The IGPAC makes recommendations to USTR and the Administration on trade policy matters from the perspective of state and local governments. The IGPAC was briefed and consulted on trade priorities of interest to states and localities, including the negotiation of the USMCA, China Phase One Agreement, and enforcement actions at the WTO. IGPAC members are also invited to participate in periodic teleconference briefings, similar to teleconference calls held for SPOC and chairs of the advisory committees.

**Meetings of State and Local Associations and Local Chambers of Commerce**

USTR officials participate frequently in meetings of state and local government associations and local chambers of commerce to apprise them of relevant trade policy issues and solicit their views. USTR senior officials have met with the National Governors' Association and other state and local commissions and organizations. Additionally, USTR officials have addressed gatherings of state and local officials around the country.

**Consultations Regarding Specific Trade Issues**

USTR consults with particular states and localities on issues arising under the WTO and other U.S. trade agreements and frequently responds to requests for information from state and local governments. Topics of interest include negotiation of the USMCA, the China Section 301 Investigation, enforcement of trade agreements, and consultations with individual states regarding certain trade remedy investigations.

## 5. Freedom of Information Act

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. USTR had 14 requests pending at the start of fiscal year 2019, and over the course of the fiscal year received 136 new FOIA requests and processed 138 FOIA requests. The USTR FOIA Office demonstrated its ongoing commitment to transparency by, among other things, closing its 14 oldest FOIA requests while also improving the timeliness of responses. In addition, the USTR FOIA Office proactively added links to certain materials in anticipation of high public interest in particular topics, such as the United States-United Kingdom Trade and Investment Working Group and United States-China negotiations. The USTR FOIA Office has also updated frequently requested records including USTR's FOIA logs on a quarterly basis, and the calendars of senior level officials and visitor logs on a bimonthly basis. Proactively disclosed information is available in the USTR FOIA Library.

# C. Congressional Consultations

To broaden access to negotiating texts and further encourage Congressional participation, USTR provides access to U.S. text proposals and consolidated text of agreements under negotiation to all Members of

Congress, professional staff of the Committees on Finance and Ways and Means with an appropriate security clearance, to professional staff from other Committees with an appropriate security clearance 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, 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), and up to three professional staff from each of the Committees on Finance and Ways and Means with an appropriate security clearance will be accredited to negotiating rounds.

Over the course of 2019, USTR consulted with Congressional Committees and leadership of both parties in the U.S. Senate and U.S. House of Representatives, held over 200 meetings and calls with members and staff of Congress and over 7 closed-door Committee meetings, as well as 4 formal hearings before the committees of jurisdiction. In total, USTR Congressional Affairs scheduled over 500 Congressional meetings. These covered issues ranging from negotiation and Congressional passage of the United States––Mexico–Canada Agreement (USMCA), negotiation of the United States–Japan Trade Agreement: Phase One, negotiation of the United States–China Trade Agreement: Phase One, consultations on a potential free trade agreement with the United Kingdom, consultations on a potential free trade agreement with the European Union, and consultations on a potential free trade agreement with Kenya.

# ANNEX I

# U.S. TRADE IN 2019

## I. 2019 Overview

The deficit on goods and services trade decreased by $10.9 billion (1.7 percent) in 2019, to $616.8 billion (Table 1). This was the first decline since 2013. The deficit on goods and services was 19.0 percent lower than the 2006 high of $761.7 billion. As a share of GDP, the deficit decreased from 3.0 percent of GDP in 2018 to 2.9 percent of GDP in 2019, and is lower than the 2006 high of 5.5 percent.

The U.S. deficit in goods trade alone decreased by $21.4 billion (2.4 percent), from $887.3 billion in 2018 to $866.0 billion in 2019. The U.S. surplus in services trade also decreased, falling by $10.4 billion (4.0 percent) from $259.7 billion in 2018 to $249.2 billion in 2019. As a share of GDP, the goods deficit decreased from 4.3 percent to 4.0 percent, and the services surplus decreased slightly from 1.3 percent of GDP in 2018 to 1.2 percent in 2019.

**Table 1- U.S. Trade Balance**

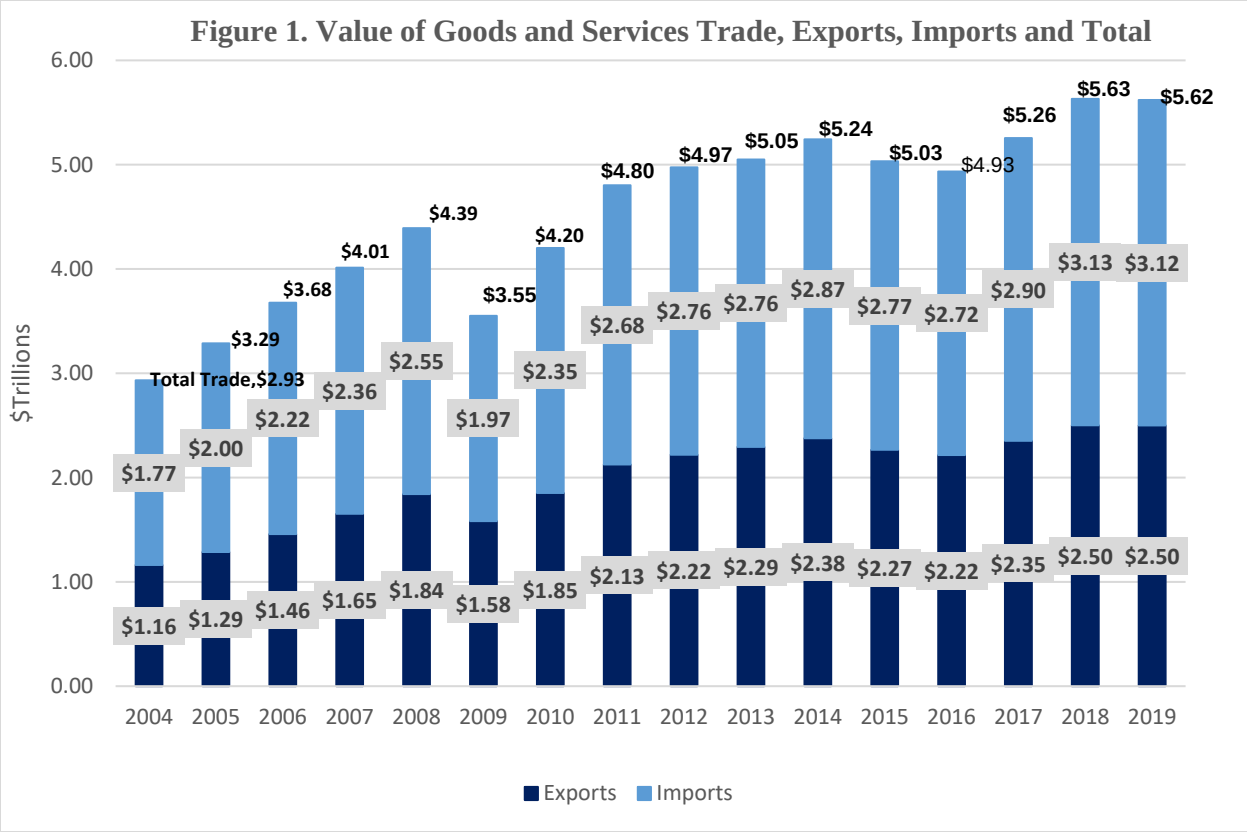
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 |
|---|---|---|---|---|---|---|
| **U.S. Trade Balances as a Share of GDP** | | | | | | |
| **Goods and Services** | -2.8% | -2.7% | -2.7% | -2.8% | -3.0% | -2.9% |
| **Goods** | -4.3% | -4.2% | -4.0% | -4.1% | -4.3% | -4.0% |
| **Services** | 1.5% | 1.4% | 1.3% | 1.3% | 1.3% | 1.2% |
| **U.S. Trade Balances with the World ($Billions)** | | | | | | |
| **Goods and Services** | -489.6 | -498.5 | 503.0 | 550.1 | 627.7 | -616.8 |
| **Goods** | -749.9 | -761.9 | -749.8 | -805.5 | -887.3 | -866.0 |
| **Services** | 260.3 | 263.3 | 246.8 | 255.1 | 259.7 | 249.2 |

Source: U.S. Department of Commerce.

U.S. trade (exports and imports of goods and services) in 2019 was the second highest amount of any year on record, exceeded only by 2018 figures, which were marginally higher (0.2 percent). U.S. trade decreased slightly by $14 billion in 2019[29] (*Figure 1*). U.S. exports of goods and services decreased by 0.1 percent, while U.S. imports of goods and services decreased by 0.4 percent. As a percent of GDP, total trade (exports plus imports) decreased as well, representing 26.2 percent in 2019 (*Figure 2*). Exports represented 11.7 percent of GDP in 2019 and imports represented 14.5 percent of GDP in 2019.[30]

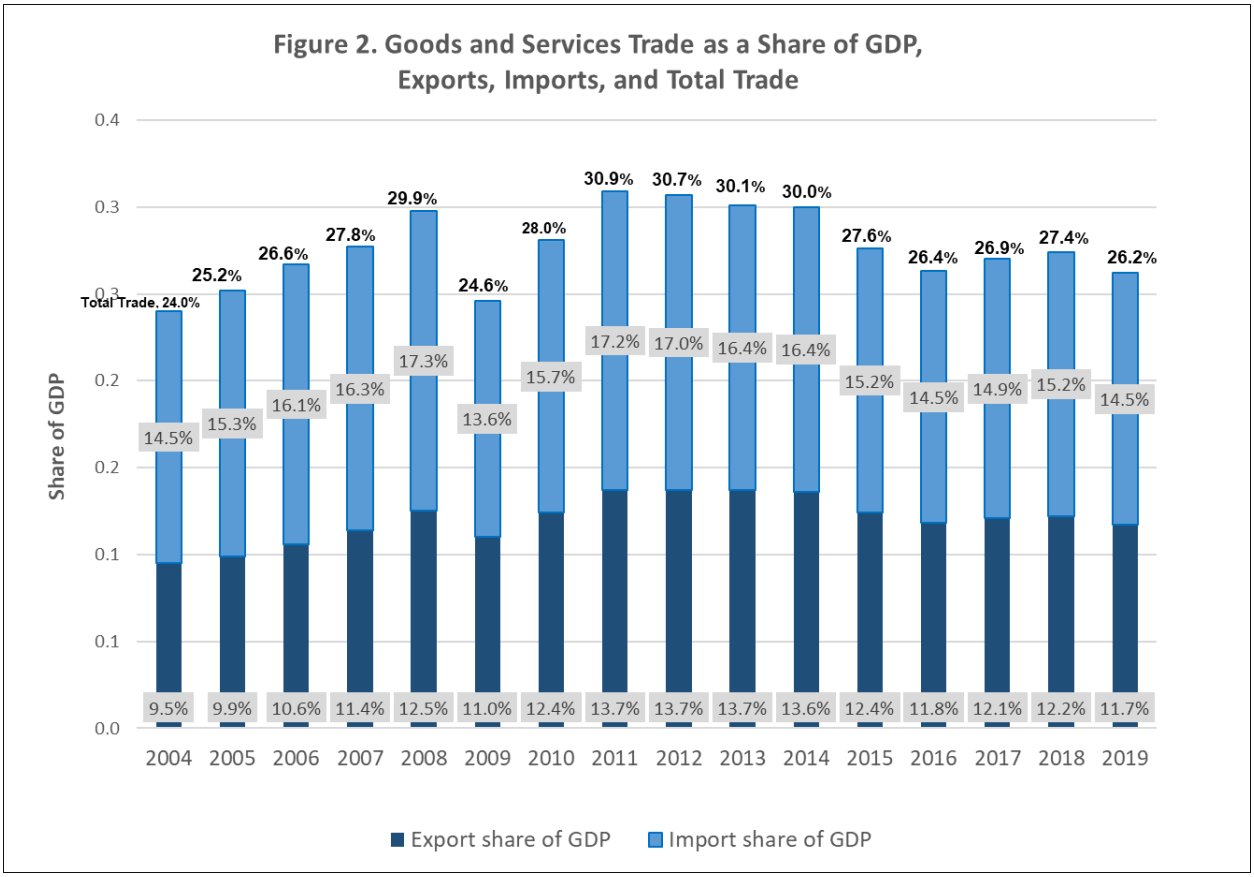
[29] On a balance of payments (BOP) basis.

[30] 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 1.9 percent in 2019 representing 37.9 percent of GDP. Data are annualized based on the first 3 quarters of 2019.




Source: U.S. Department of Commerce

In real terms, trade was up by 0.5 percent in 2019. Real exports of goods and services were down 0.04 percent, while real imports of goods and services were up 1.0 percent.




Source: U.S. Department of Commerce

## II. Export Growth

Total U.S. exports of goods and services in 2019 are the second highest in U.S. history, exceeded slightly only by total U.S. exports in 2018. U.S. exports of goods and services were down slightly by 0.1 percent in 2019 to $2.5 trillion (*Table 2*), but up 5.2 percent since 2014. Goods exports were down by $21.3 billion in 2019 to $1.65 trillion, while services exports were up by $19.7 billion to $846.7 billion (*Table 2*).

| Table 2- U.S. Exports | | | | | |
|---|---|---|---|---|---|
| | Value ($ Billions) | | | % Change | |
| | 2014 | 2018 | 2019 | 14-19 | 18-19 |
| **Total Goods and Services** | **2,376.7** | **2,501.3** | **2,499.8** | 5.2% | -0.1% |
| **Goods on a BOP Basis** | **1,635.6** | 1,674.3 | 1,653.0 | 1.1% | -1.3% |
| Foods, Feeds, Beverages | 143.7 | 133.2 | 131.1 | -8.8% | -1.5% |
| Industrial Supplies | 505.8 | 541.7 | 530.6 | 4.9% | -2.0% |
| Capital Goods | 551.5 | 562.9 | 547.1 | -0.8% | -2.8% |
| Automotive Vehicles, etc. | 159.8 | 158.8 | 161.8 | 1.3% | 1.9% |
| Consumer Goods | 199.0 | 206.0 | 206.4 | 3.7% | 0.2% |
| Other Goods | 62.0 | 63.3 | 68.4 | 10.3% | 8.0% |
| Petroleum (Addendum) | 145.2 | 175.3 | 180.2 | 24.1% | 2.8% |
| Manufacturing (Addendum) | 1,403.8 | 1,400.0 | 1,365.3 | -2.7% | -2.5% |
| Agriculture (Addendum) | 154.6 | 144.4 | 141.5 | -8.5% | -2.0% |
| **Services** | **741.1** | **827.0** | **846.7** | **14.3%** | **2.4%** |
| Maintenance and repair services | 21.1 | 31.0 | 32.2 | 52.3% | 4.0% |
| Transport | 90.7 | 92.9 | 91.8 | 1.1% | -1.2% |
| Travel | 191.9 | 214.7 | 214.1 | 11.6% | -0.3% |
| Insurance services | 17.3 | 17.5 | 17.6 | 1.4% | 0.6% |
| Financial services | 106.9 | 112.0 | 113.9 | 6.5% | 1.7% |
| Charges for the use of intellectual property | 129.7 | 128.7 | 129.1 | -0.5% | 0.3% |
| Telecom, computer and information services | 34.7 | 43.2 | 48.0 | 38.3% | 11.0% |
| Other business services | 128.9 | 165.8 | 179.6 | 39.3% | 8.3% |
| Government goods and services | 19.7 | 21.2 | 20.5 | 4.3% | -3.3% |

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for sectors.

**A. Goods Exports**

Goods exports in 2019 represent the second highest year on record after 2018. Goods exports decreased in 2019 by $21.3 billion to $1.65 trillion (*Table 2)*. Manufacturing exports, which accounted for 83 percent of total goods exports, were down by $34.7 billion in 2019. Agricultural exports, which accounted for nine percent of total goods exports, were down by $3.0 billion in 2019. U.S. goods exports decreased for the larger major end-use categories in 2019, with the largest decreases in capital goods - down $15.8 billion and industrial supplies – down $11.1 billion. U.S. exports of automotive vehicles and parts were up by $3.0 billion.

Over the last five years, between 2014 and 2019, U.S. goods exports have increased by $17.5 billion. Over the same time period, U.S. agricultural exports decreased by $13.1 billion, while manufacturing exports decreased by $38.5 billion. Of the major end-use categories, U.S. exports of industrial supplies had the largest increase, up $24.8 billion, while U.S. exports of foods, feeds, and beverages had the largest decrease, down $12.6 billion. U.S. petroleum exports, a subset of industrial supplies, increased by $35.0 billion.

| Table 3 - U.S. Goods Exports to Selected Countries/Regions | | | | | |
|---|---|---|---|---|---|
| | Value ($ Billions) | | | % Change | |
| | 2014 | 2018 | 2019 | 14-19 | 18-19 |
| Canada | 312.8 | 299.8 | 292.7 | -6.4% | -2.4% |
| Mexico | 241.0 | 265.4 | 256.4 | 6.4% | -3.4% |
| China | 123.7 | 120.1 | 106.6 | -13.8% | -11.3% |
| Japan | 66.9 | 75.2 | 74.7 | 11.7% | -0.8% |
| European Union (28) | 276.3 | 318.4 | 337.0 | 22.0% | 5.9% |
| Pacific Rim (excluding Japan and China) | 204.2 | 217.4 | 210.9 | -3.3% | -3.0% |
| Latin America (excluding Mexico) | 183.8 | 164.2 | 162.6 | -11.6% | -1.0% |
| FTA Countries (Addendum) | 765.5 | 782.3 | 766.6 | 0.1% | -2.0% |
| Advanced Economies (Addendum) | 864.6 | 913.2 | 911.8 | 5.5% | -0.2% |
| Emerging Markets and Developing Economies (Addendum) | 757.3 | 752.8 | 733.3 | -3.2% | -2.6% |

Source: U.S. Department of Commerce, Census basis.
Advanced Economies and Emerging Markets as defined by the IMF.

In 2019, U.S. goods exports to most major trading partners remained near record highs. U.S. goods exports decreased by $7.1 billion to Canada, $9.0 billion to Mexico, $13.5 billion to China, and by $0.5 billion to Japan. On a regional basis, exports were up $18.6 billion to the European Union, but down by $6.5 billion to the Pacific Rim (excluding China and Japan), and down by $1.6 billion to Latin America (excluding Mexico). U.S. goods exports decreased by $15.7 billion to our 20 FTA partners,[31] decreased by $1.4 billion to advanced economies,[32] and decreased by $19.5 billion to emerging markets and developing economies.

**B. Services Exports**

U.S. exports of services increased by $19.7 billion to $846.7 billion in 2019 (Table 2). U.S. services exports accounted for 33.9 percent of the level of U.S. goods and services exports in 2019. The increase in U.S. services exports in 2019 was led by the "other business services" category (*e.g.*, professional and management consulting services and research and development services), in which exports were up $13.7 billion; and by telecommunication, computer and information services, which were up $4.8 billion.

U.S. services exports have increased by $105.6 billion over the past 5 years. Of this $105.6 billion increase in U.S. services exports between 2014 and 2019, other business services accounted for $50.6 billion, while travel (including education) accounted for $22.2 billion.

The United Kingdom was the largest purchaser of U.S. services exports in 2019, accounting for an estimated $75 billion of total U.S. services exports.33 The next four largest purchaser of services exports in 2019 were: Canada ($64 billion), China ($56 billion), Japan ($48 billion), and Germany ($36 billion). Regionally, in 2019, the United States exported an estimated $265 billion of services to the European Union, $145 billion to the Asia/Pacific region (excluding China and Japan), $69 billion to South and Central America (excluding Mexico), and $98 billion to USMCA countries.

[31] The 20 FTA countries currently entered into force accounted for 46.6 percent of total goods exports in 2019.
[32] Advanced economies accounted for 55.4 percent of total goods exports in 2019.
[33] Data are annualized based on 3 quarters of information. Notably, the UK also claims to have a surplus in services with the U.S., suggesting asymmetries in reporting.

## III. Imports

U.S. imports of goods and services were down $12.5 billion in 2019 to $3.12 trillion. Goods imports were down $42.6 billion to $2.52 trillion, while services imports were up $30.2 billion to $597.5 billion (*Table 4*)

| Table 4 - U.S. Imports | | | | | |
|---|---|---|---|---|---|
| | Value ($ Billions) | | | % Change | |
| | 2014 | 2018 | 2019 | 14-19 | 18-19 |
| **Total Goods and Services** | **2,866.2** | **3,129.0** | **3,116.5** | **8.7%** | **-0.4%** |
| **Goods on a BOP Basis** | **2,385.5** | **2,561.7** | **2,519.0** | **5.6%** | **-1.7%** |
| Foods, Feeds, Beverages | 125.9 | 147.4 | 150.5 | 19.6% | 2.2% |
| Industrial Supplies (2) | 667.0 | 575.6 | 522.0 | -21.7% | -9.3% |
| Capital Goods | 594.1 | 692.6 | 678.2 | 14.1% | -2.1% |
| Automotive Vehicles, etc. | 328.6 | 372.2 | 376.1 | 14.4% | 1.0% |
| Consumer Goods | 557.1 | 646.8 | 653.9 | 17.4% | 1.1% |
| Other Goods | 83.6 | 106.2 | 117.8 | 40.9% | 10.9% |
| Petroleum (Addendum) | 334.0 | 225.3 | 193.9 | -41.9% | -13.9% |
| Manufacturing (Addendum) | 1,930.7 | 2,182.4 | 2,159.6 | 11.9% | -1.0% |
| Agriculture (Addendum) | 112.0 | 128.8 | 131.3 | 17.3% | 1.9% |
| **Services** | **480.8** | **567.3** | **597.5** | **24.3%** | **5.3%** |
| Maintenance and repair services | 7.5 | 8.7 | 9.1 | 20.7% | 4.1% |
| Transport | 94.2 | 108.2 | 110.0 | 16.8% | 1.7% |
| Travel | 105.7 | 144.5 | 152.3 | 44.1% | 5.4% |
| Insurance services | 51.0 | 42.5 | 49.6 | -2.9% | 16.6% |
| Financial services | 24.9 | 31.3 | 34.2 | 37.4% | 9.2% |
| Charges for the use of intellectual property | 42.0 | 56.1 | 57.8 | 37.8% | 3.1% |
| Telecom, computer and information services | 36.5 | 41.2 | 43.0 | 17.9% | 4.5% |
| Other business services | 94.8 | 111.9 | 117.5 | 24.0% | 5.0% |
| Government goods and services | 24.2 | 23.0 | 24.0 | -1.0% | 4.4% |

Source: U.S. Department of Commerce, Balance of Payments basis for total, Census basis for goods sectors.

### A. Goods Imports

U.S. goods imports decreased by $42.6 billion in 2019 to $2.52 trillion, accounting for 81 percent of total imports (*Table 4*). U.S. manufacturing imports, which accounted for 86 percent of total goods imports, decreased by $22.8 billion, while agricultural imports, accounting for 5 percent of total goods imports, increased by $2.5 billion.

The two largest import end-use category decline in 2019 were industrial supplies – down $53.6 billion and capital goods – down by $14.4 billion. Import growth in other end-use categories that partially offset this decline was led by an $11.6 billion increase in imports of other goods, and a $7.1 billion increase in imports of consumer goods.

U.S. goods imports have increased by $133.6 billion since 2014. During this time period, U.S. imports of agriculture and manufactured goods increased by $19.3 billion and by $228.9 billion, respectively. For the

major end-use categories, gains in U.S. imports of consumer goods – up by $96.8 billion – and capital goods – up by $84.1 billion – were offset by declines in U.S. imports of industrial supplies – down by $145.0 billion.

| Table 5 - U.S. Goods Imports from Selected Countries/Regions | | | | | |
|---|---|---|---|---|---|
| | Value ($ Billions) | | | % Change | |
| | 2014 | 2018 | 2019 | 14-19 | 18-19 |
| Canada | 349.3 | 318.8 | 319.7 | -8.5% | 0.3% |
| Mexico | 295.7 | 346.1 | 358.1 | 21.1% | 3.5% |
| China | 468.5 | 539.7 | 452.2 | -3.5% | -16.2% |
| Japan | 134.5 | 142.4 | 143.6 | 6.8% | 0.9% |
| European Union (28) | 420.6 | 487.0 | 514.9 | 22.4% | 5.7% |
| Pacific Rim (excluding Japan and China) | 207.9 | 240.3 | 251.5 | 21.0% | 4.7% |
| Latin America (excluding Mexico) | 150.3 | 122.2 | 108.9 | -27.6% | -10.9% |
| FTA Countries (Addendum) | 832.0 | 862.0 | 875.1 | 5.2% | 1.5% |
| Advanced Economies (Addendum) | 1,098.3 | 1,168.5 | 1,209.7 | 10.1% | 3.5% |
| Emerging Markets and Developing Economies (Addendum) | 1,258.0 | 1,372.3 | 1,288.7 | 2.4% | -6.1% |

Source: U.S. Department of Commerce, Census basis.
Advanced Economies and Emerging Markets as defined by the IMF.

In 2019, U.S. goods imports from China decreased $88.5 billion, while they increased with Mexico, Canada, and Japan, up $12.0 billion, $0.9 billion, and $1.2 billion, respectively. U.S. goods imports were up $13.1 billion from our 20 FTA partners,[34] and $41.2 billion from advanced economies,[35] but down $83.6 billion from emerging markets and developing economies.

**B. Services Imports**

U.S. services imports increased $30.2 billion to $597.5 billion in 2019 (*Table 4*). This increase was led by travel services (including education) – up $7.8 billion, insurance services – up $7.1 billion, and other business services (*e.g.*, professional and management consulting services, and research and development services) – up $5.6 billion.

U.S. services imports increased $116.7 billion over the past 5 years. Of the $116.7 billion increase in U.S. services imports between 2014 and 2019, travel services accounted for $46.6 billion, other business services accounted for $22.7 billion, charges for the use of intellectual property accounted for $15.8 billion, and transport services accounted for $15.8 billion.

The United Kingdom remained the U.S.' largest supplier of services, accounting for an estimated $62 billion of total U.S. services imports in 2019.[36] The next four largest suppliers of services exports in 2019 were Canada ($38 billion), Japan ($36 billion), Germany ($35 billion), and India ($30 billion). Regionally, in 2019, the United States imported an estimated $212 billion of services from the European Union, $105

[34] The 20 FTA countries currently entered into force accounted for 35.0 percent of total goods imports in 2019.
[35] Advanced economies accounted for 48.4 percent of total goods imports in 2019.
[36] Data are annualized based on 3 quarters of information.

billion from the Asia/Pacific region (excluding China and Japan), $29 billion from South and Central America (excluding Mexico), and $64 billion from USMCA countries.

# ANNEX II

# 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)

- Agreement Between the Governments of Australia, the People's Republic of China, the Republic of Korea, the Kingdom of Thailand, the United States of America, and the Socialist Republic of Viet Nam concerning the importation by Korea of rice (December 30, 2019)

# 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)
- Memorandum of Understanding Between the United States of America and the Kingdom of Bahrain on Trade in Food and Agricultural Products (March 30, 2018)

**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)
- Agreement on trade and economic cooperation between the Government of the Federative Republic of Brazil and the Government of the United States of America (March 19, 2011)
- 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)
- United States-Canada Exchange of Letters on the Sale of Wine (November 30, 2018)
- United States-Canada Exchange of Letters on Trade in Automotive Goods (November 30, 2018)
- United States-Canada Exchange of Letters on Research and Development Expenditures (November 30, 2018)
- United States-Canada Exchange of Letters on Measures Taken Under Section 232 of the Trade Expansion Act of 1962 (November 30, 2018)

**Caribbean Community (CARICOM)**

- Trade and Investment Council Agreement (July 22, 1991)
- Trade and Investment Framework Agreement (May 28, 2013)

**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)
    v. Decision No. 5 of the Free Trade Commission of the United States – Colombia Trade Promotion Agreement; Decision to Establish the Remuneration of Panelists, Assistants, and Experts, and the Payment of Expenses in Dispute Settlement Proceedings Under Chapter Twenty-One (Dispute Settlement) (July 2018)
    vi. Decision No. 6 of the Free Trade Commission of the United States – Colombia Trade Promotion Agreement; Decision Establishing the Model Rules of Procedure (July 2018)
    vii. Decision No. 7 of the Free Trade Commission of the United States – Colombia Trade Promotion Agreement; Decision Establishing a Code of Conduct (July 2018)
- 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)
- Exchange of Letters between the United States and Colombia Regarding Chapter 16 of the United States – Colombia Trade Promotion Agreement and Truck Scrappage Program (April 2018)
- Agreement Establishing a Secretariat for Environmental Matters (April 2019)

**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**

- Trade and Investment Council Agreement (July 23, 1990)
- 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 had notified the United States that it would 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 (April 4, 2018)
- Agreement Related to the Revised Memorandum of Understanding between the United States of America and the European Commission in Connection with the *EC – Hormones* Dispute (December 14, 2019)

**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 (This agreement has been extended on a yearly basis since December 2008, with the last extension on December 4, 2019)

- 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)
- Exchange of Letters on Procedures to Introduce Supercomputers (August 7, 1987)
- 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)
- Trade Agreement between the United States of America and Japan (January 1, 2020)
- United States-Japan Exchange of Letters regarding alcoholic beverages (January 1, 2020)
- United States-Japan Exchange of Letters regarding beef (January 1, 2020)
- United States-Japan Exchange of Letters regarding rice (January 1, 2020)
- United States-Japan Exchange of Letters regarding agricultural safeguard measures (January 1, 2020)
- United States-Japan Exchange of Letters regarding skimmed milk powder (January 1, 2020)
- United States-Japan Exchange of Letters regarding whey (January 1, 2020)
- Agreement between the United States of America and Japan concerning Digital Trade (January 1, 2020)
- United States-Japan Exchange of Letters regarding Interactive Computer Services (January 1, 2020)

**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)
- Agreed Minutes on Korea Certification Mark and Korea's Motor Vehicle Fuel Economy and Greenhouse Gas Emissions Regulations (September 24, 2018)
- Interpretation by the Joint Committee of the Free Trade Agreement between the United States of America and the Republic of Korea Regarding the June 30, 2007 Exchange of Letters (September 24, 2018)
- Exchange of Letters between the United States and Korea Regarding Entry Into Force of the Protocol between the Government of the United States of America and the Government of the Republic of Korea Amending the Free Trade Agreement between the United States of America and the Republic of Korea (September 24, 2018)
- Exchange of Letters between the United States and Korea Regarding the Confirmation of Customs Principles and the Establishment of the Rules of Origin Verification Working Group under the Free Trade Agreement between the United States of America and the Republic of Korea (September 24, 2018)
- Exchange of Letters between the United States and Korea Regarding Amendments to Korea's Premium Pricing Policy for Global Innovative New Drugs (September 24, 2018)

- Exchange of Letters between the United States and Korea Regarding Korea's Request to Modify the Rules of Origin under the Free Trade Agreement between the United States of America and the Republic of Korea (September 24, 2018)

- Protocol between the Government of the United States of America and the Government of the Republic of Korea Amending the February 10, 2011 Exchange of Letters (January 1, 2019)

- Protocol between the Government of the United States of America and the Government of the Republic of Korea Amending the Free Trade Agreement between the United States of America and the Republic of Korea (January 1, 2019)

- Exchange of Letters concerning Korea's World Trade Organization tariff-rate quota for rice and the country-specific quota for the United States established within that tariff-rate quota (December 30, 2019).

**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)
- United States-Mexico Exchange of Letters on Measures Taken Under Section 232 of the Trade Expansion Act of 1962 (November 30, 2018)
- United States-Mexico Exchange of Letters on Trade in Automotive Goods (November 30, 2018)
- United States-Mexico Exchange of Letters on Dispute Settlement Regarding Trade in Automotive Goods Exchange (November 30, 2018)
- United States-Mexico Exchange of Letters on the Ramsar Convention (December 10, 2019)

**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 and Plurilateral 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)
- The Dominican Republic-Central America-United States Free Trade Agreement Decision Regarding the Specific Rules of Origin of Annex 4.1 (signed by the United States on July 6, 2017)
- Agreement Between the United States of America, the United Mexican States, and Canada (signed November 30, 2018; amended December 10, 2019)

### Bilateral Agreements

**Belarus**

- Bilateral Investment Treaty (signed January 15, 1994)

**Canada**

- United States-Canada Exchange of Letters on Energy (signed November 30, 2018)
- United States-Canada Exchange of Letters on Natural Water Resources (signed November 30, 2018)

**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)

**Mexico**

- United States-Mexico Exchange of Letters on Safety Standards in the Automotive Sector (signed November 30, 2018)
- United States-Mexico Exchange of Letters on Prior Users (signed November 30, 2018)
- United States-Mexico Exchange of Letters Distilled Spirits (signed November 30, 2018)
- United States-Mexico Exchange of Letters on Cheeses (signed November 30, 2018)
- Environment Cooperation and Customs Verification Agreement between the United States and Mexico (signed December 10, 2019)

**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)

**United Kingdom**

- Bilateral Agreement between the United States of America and the United Kingdom on Prudential Measures Regarding Insurance and Reinsurance (signed December 18, 2018)
- Agreement between the United States of America and the United Kingdom of Great Britain and Northern Ireland on Trade In Wine (signed January 31, 2019)
- Agreement between the United States of America and the United Kingdom of Great Britain and Northern Ireland on the Mutual Recognition of Certain Distilled Spirits/Spirit Drinks (signed January 31, 2019)

**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, 199)
  - Leaders' Declaration of Common Resolve (November 15, 1994)
  - 7th Joint Ministerial Statement (November 16-17, 1995)
  - Leaders' Declaration for Action (November 19, 1995)
  - Ministers Responsible for Trade Statement (July 15-16, 1996)
  - 8th Joint Ministerial Statement (November 22-23, 1996)
  - Leaders' Declaration: From Vision to Action (November 25, 1996)
  - Ministers Responsible for Trade Statement (May 8-10, 1997)
  - 9th Joint Ministerial Statement (November 21-22, 1997)

- Leaders' Declaration on Connecting the APEC Community (November 25, 1997)
- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Agreement (June 5, 1998)
- Ministers Responsible for Trade Statement (June 22-23, 1998)
- 10th Joint Ministerial Statement (November 14-15, 1998)
- Leaders' Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Ministers Responsible for Trade Statement (June 29-30, 1999)
- 11th Joint Ministerial Statement (September 9-10, 1999)
- Leaders' Declaration: The Auckland Challenge (September 13, 1999)
- Ministers Responsible for Trade Statement (June 6-7, 2000)
- 12th Joint Ministerial Statement (November 12-13, 2000)
- Leaders' Declaration: Delivering to the Community (November 16, 2000)
- Ministers Responsible for Trade Statement (June 6-7,2001)
- 13th Joint Ministerial Statement (October 17-18, 2001)
- Leaders' Declaration: Meeting New Challenges in the New Century (October 21, 2001)
- Ministers Responsible for Trade Statement (May 29-30, 2002)
- 14th Joint Ministerial Statement (October 23-24, 2002)
- Leaders' Declaration: Expanding the Benefits of Cooperation for Economic Growth and Development-Implementing the Vision (October 27, 2002)
- Ministers Responsible for Trade Statement (June 2-3, 2003)
- 15th Joint Ministerial Statement (October 17-18, 2003)
- Declaration: A World of Differences-Partnership for the Future (October 21, 2003)
- Ministers Responsible for Trade Statement (June 4-5, 2004)
- 16th Joint Ministerial Statement (November 17-18, 2004)
- Leaders' Declaration: One Community, Our Future (November 20-21, 2004)
- Ministers Responsible for Trade Statement (June 2-3, 2005)
- 17th Joint Ministerial Statement (November 15-16, 2005)

- Leaders' Declaration: Towards One Community: Meet the Challenge, Make the Change (November 18-19, 2005)
- Ministers Responsible for Trade Statement (June 1-2, 2006)
- 18th Joint Ministerial Statement (November 15-16, 2006)
- Leaders' Declaration: Towards a Dynamic Community for Sustainable Development and Prosperity (November 18-19, 2006)
- Ministers Responsible for Trade Statement (July 5-6, 2007)
- 19th Joint Ministerial Statement (September 5-6, 2007)
- Leaders' Declaration: Strengthening our Community, Building a Sustainable Future (September 9, 2007)
- Ministers Responsible for Trade Statement (May 31-June 1, 2008)
- 20th Joint Ministerial Statement (November 19-20, 2008)
- Leaders' Declaration: A New Commitment to Asia-Pacific Development (November 22-23, 2008)
- Ministers Responsible for Trade Statement (July 21-22, 2009)
- 21st Joint Ministerial Statement (November 11-12, 2009)
- Leaders' Declaration: Sustaining Growth, Connecting The Region (November 14-15, 2009)
- Ministers Responsible for Trade Statement (June 5-6, 2010)
- 22nd Joint Ministerial Statement (November 10-11, 2010)
- Leaders' Declaration: The Yokohama Vision-Bogor and Beyond (November 13-14, 2010)
- Ministers' Responsible for Trade Statement (May 19-20, 2011)
- 23rd Joint Ministerial Statement (November 11, 2011)
- Leaders' Declaration: Toward a Seamless Regional Economy (November 12-13, 2011)
- Ministers' Responsible for Trade Statement (June 4-5, 2012)
- 24th Joint Ministerial Statement (September 5-6, 2012)
- Leaders' Declaration: Integrate to Grow, Innovate to Prosper (September 8-9, 2012)
- 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)

- Understanding Between the United States, Mexico, and Canada regarding Article 23.6 of the Agreement Between the United States of America, the United Mexican States, and Canada, done at Mexico City, on November 30, 2018 (December 10, 2019)

## 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)

**Laos**

- United States-Lao People's Democratic Republic Trade and Investment Framework Agreement (February 17, 2016)

**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**

- Agreement Between the American Institute in Taiwan and the Coordination Council for North American Affairs Concerning a Framework of Principles and Procedures for Consultations Regarding Trade and Investment (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)

# ANNEX III

# BACKGROUND INFORMATION ON THE WTO

**MEMBERSHIP OF THE WORLD TRADE ORGANIZATION**
As of December 31, 2019 (164 Members)

| Government | Entry Into Force | Government | Entry Into Force |
|---|---|---|---|
| Afghanistan | July 29, 2016 | Latvia | February 10, 1999 |
| Albania | September 8, 2000 | Lesotho | May 31, 1995 |
| Angola | November 23, 1996 | Liberia | July 14, 2016 |
| Antigua and Barbuda | January 1, 1995 | Luxembourg | January 1, 1995 |
| Argentina | January 1, 1995 | Macao, China | January 1, 1995 |
| Armenia | February 5, 2003 | Republic of Macedonia | April 4, 2003 |
| Australia | January 1, 1995 | Madagascar | November 17, 1995 |
| Austria | January 1, 1995 | Malawi | May 31, 1995 |
| Bahrain | January 1, 1995 | Malaysia | January 1, 1995 |
| Bangladesh | January 1, 1995 | Maldives | May 31, 1995 |
| Barbados | January 1, 1995 | Mali | May 31, 1995 |
| Belgium | January 1, 1995 | Malta | January 1, 1995 |
| Belize | January 1, 1995 | Mauritania | May 31, 1995 |
| Benin | February 22, 1996 | Mauritius | January 1, 1995 |
| Bolivia | September 12, 1995 | Mexico | January 1, 1995 |
| Botswana | May 31, 1995 | Moldova | July 26, 2001 |
| Brazil | January 1, 1995 | Mongolia | January 29, 1997 |
| Brunei Darussalam | January 1, 1995 | Montenegro | April 29, 2012 |
| Bulgaria | December 1, 1996 | Morocco | January 1, 1995 |
| Burkina Faso | June 3, 1995 | Mozambique | August 26, 1995 |
| Burundi | July 23, 1995 | Myanmar | January 1, 1995 |

| | | | |
|---|---|---|---|
| Cambodia | October 12, 2004 | Namibia | January 1, 1995 |
| Cameroon | December 13, 1995 | Nepal | April 23, 2004 |
| Canada | January 1, 1995 | The Netherlands | January 1, 1995 |
| Cape Verde | July 23, 2008 | New Zealand | January 1, 1995 |
| Central African Republic | May 31, 1995 | Nicaragua | September 3, 1995 |
| Chad | October 19, 1996 | Niger | December 13, 1996 |
| Chile | January 1, 1995 | Nigeria | January 1, 1995 |
| China | December 11, 2001 | Norway | January 1, 1995 |
| Colombia | April 30, 1995 | Oman | November 9, 2000 |
| Democratic Republic of the Congo | January 1, 1997 | Pakistan | January 1, 1995 |
| Republic of the Congo | March 27, 1997 | Panama | September 6, 1997 |
| Costa Rica | January 1, 1995 | Papua New Guinea | June 9, 1996 |
| Côte d'Ivoire | January 1, 1995 | Paraguay | January 1, 1995 |
| Croatia | November 30, 2000 | Peru | January 1, 1995 |
| Cuba | April 20, 1995 | Philippines | January 1, 1995 |
| Cyprus | July 30, 1995 | Poland | July 1, 1995 |
| Czech Republic | January 1, 1995 | Portugal | January 1, 1995 |
| Denmark | January 1, 1995 | Qatar | January 13, 1996 |
| Djibouti | May 31, 1995 | Romania | January 1, 1995 |
| Dominica | January 1, 1995 | Russia | August 22, 2012 |
| Dominican Republic | March 9, 1995 | Rwanda | May 22, 1996 |
| Ecuador | January 21, 1996 | Saint Kitts and Nevis | February 21, 1996 |
| Egypt | June 30, 1995 | Saint Lucia | January 1, 1995 |

| | | | |
|---|---|---|---|
| El Salvador | May 7, 1995 | Saint Vincent and the Grenadines | January 1, 1995 |
| Estonia | November 13, 1999 | Samoa | May 10, 2012 |
| Eswatini | January 1, 1995 | Saudi Arabia | December 11, 2005 |
| European Union | January 1, 1995 | Senegal | January 1, 1995 |
| Fiji | January 14, 1996 | Seychelles | April 26, 2015 |
| Finland | January 1, 1995 | Sierra Leone | July 23, 1995 |
| France | January 1, 1995 | Singapore | January 1, 1995 |
| Gabon | January 1, 1995 | Slovak Republic | January 1, 1995 |
| The Gambia | October 23, 1996 | Slovenia | July 30, 1995 |
| Georgia | June 14, 2000 | Solomon Islands | July 26, 1996 |
| Germany | January 1, 1995 | South Africa | January 1, 1995 |
| Ghana | January 1, 1995 | Spain | January 1, 1995 |
| Greece | January 1, 1995 | Sri Lanka | January 1, 1995 |
| Grenada | February 22, 1996 | Suriname | January 1, 1995 |
| Guatemala | July 21, 1995 | Sweden | January 1, 1995 |
| Guinea | October 25, 1995 | Switzerland | July 1, 1995 |
| Guinea Bissau | May 31, 1995 | Taiwan (referred to in the WTO as Chinese Taipei) | January 1, 2002 |
| Guyana | January 1, 1995 | Tajikistan | March 2, 2013 |
| Haiti | January 30, 1996 | Tanzania | January 1, 1995 |
| Honduras | January 1, 1995 | Thailand | January 1, 1995 |
| Hong Kong, China | January 1, 1995 | Togo | May 31, 1995 |
| Hungary | January 1, 1995 | Tonga | July 27, 2007 |
| Iceland | January 1, 1995 | Trinidad and Tobago | March 1, 1995 |
| India | January 1, 1995 | Tunisia | March 29, 1995 |

| | | | |
|---|---|---|---|
| Indonesia | January 1, 1995 | Turkey | March 26, 1995 |
| Ireland | January 1, 1995 | Uganda | January 1, 1995 |
| Israel | April 21, 1995 | Ukraine | May 16, 2008 |
| Italy | January 1, 1995 | United Arab Emirates | April 10, 1996 |
| Jamaica | March 9, 1995 | United Kingdom | January 1, 1995 |
| Japan | January 1, 1995 | United States of America | January 1, 1995 |
| Jordan | April 11, 2000 | Uruguay | January 1, 1995 |
| Kazakhstan | November 30, 2015 | Vanuatu | August 24, 2012 |
| Kenya | January 1, 1995 | Venezuela | January 1, 1995 |
| Republic of Korea | January 1, 1995 | Vietnam | January 11, 2007 |
| Kuwait | January 1, 1995 | Yemen | June 26, 2014 |
| Kyrgyz Republic | December 20, 1998 | Zambia | January 1, 1995 |
| Laos | February 2, 2013 | Zimbabwe | March 5, 1995 |

**Consolidated 2020 Budget and 2021 Budget Proposal for the WTO Secretariat and the Appellate Body and its Secretariat**
(in thousand Swiss francs)

| Part | Section | Line | 2019 | 2020 | Inc / Decr 2020 |
|---|---|---|---|---|---|
| A Staffing Resources | | | | | |
| | 1. Staff Expenditure | i) Staff Remuneration | 88,530 | 88,530 | 0 |
| | | ii) Staff Pension & Post-Employment Benefits | 22,110 | 22,910 | 800 |
| | | iii) Staff Health & Invalidity Insurance | 5,944 | 6,394 | 450 |
| | | iv) Staff Family & International Benefits | 13,021 | 11,371 | -1,650 |
| | | v) Other Staff Expenditure | 1,810 | 2,210 | 400 |
| | **1. Staff Expenditure Total** | | **131,415** | **131,415** | **0** |
| | 2. Temporary Assistance | i) Short-Term Staff | 9,033 | 9,850 | 817 |
| | | ii) Consulting | 6,641 | 5,818 | -823 |
| | | iii) Panelists & Appellate Body Members Fees | 1,606 | 1,606 | 0 |
| | **2. Temporary Assistance Total** | | **17,281** | **17,275** | **-6** |
| B Other Resources | | | | | |
| | 3. General Services | i) Telecommunication & Post | 831 | 641 | -190 |
| | | ii) Contractual Services & Maintenance | 11,123 | 11,163 | 40 |
| | | iii) Energy & Supplies | 2,251 | 2,066 | -185 |
| | | iv) Documentation & Publication | 1,479 | 1,458 | -21 |
| | | v) Other/Miscellaneous | 88 | 48 | -40 |
| | **3. General Services Total** | | **15,773** | **15,376** | **-396** |
| | 4. Travel & Hospitality | i) Travel | 7,234 | 7,393 | 159 |
| | | ii) Hospitality | 216 | 214 | -2 |
| | **4. Travel & Hospitality Total** | | **7,450** | **7,607** | **157** |
| | 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 | 1,455 | 25 |
| | | ii) Rental & Leasing of Equipment | 920 | 640 | -280 |
| | **6. Capital Expenditure Total** | | **2,350** | **2,095** | **-255** |
| | 7. Financial Expenditure | i) Bank & Interest Charges | 80 | 580 | 500 |
| | | ii) Building Loan Reimbursement | 1,200 | 1,200 | 0 |
| | **7. Financial Expenditure Total** | | **1,280** | **1,780** | **500** |
| C Operating Funds and ITC | | | | | |
| | 8. Contributions to ITC & Special Reserves | i) Contribution to ITC | 18,243 | 18,243 | 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** | | **21,443** | **21,443** | **0** |
| **Grand Total** | | | **197,204** | **197,204** | **0** |

## 2020 Budget and 2021 Budget Proposal for the WTO Secretariat

(in thousand Swiss francs)

| Part | Section | Line | 2019 | 2020 | Inc /Decr 2020 |
|---|---|---|---|---|---|
| A Staffing Resources | | | | | |
| | 1. Staff Expenditure | i) Staff Remuneration | 85,269 | 85,269 | 0 |
| | | ii) Staff Pension & Post-Employment Benefits | 21,380 | 22,180 | 800 |
| | | iii) Staff Health & Invalidity Insurance | 5,765 | 6,215 | 450 |
| | | iv) Staff Family & International Benefits | 12,661 | 11,011 | -1,650 |
| | | v) Other Staff Expenditure | 1,767 | 2,167 | 400 |
| | **1. Staff Expenditure Total** | | **126,842** | **126,842** | **0** |
| | 2. Temporary Assistance | i) Short-Term Staff | 8,978 | 9,795 | 817 |
| | | ii) Consulting | 6,616 | 5,793 | -823 |
| | | iii) Panellists | 815 | 815 | 0 |
| | **2. Temporary Assistance Total** | | **16,409** | **16,403** | **-6** |
| B Other Resources | | | | | |
| | 3. General Services | i) Telecommunication & Post | 822 | 631 | -190 |
| | | ii) Contractual Services & Maintenance | 11,105 | 11,145 | 40 |
| | | iii) Energy & Supplies | 2,231 | 2,046 | -185 |
| | | iv) Documentation & Publication | 1,469 | 1,448 | -21 |
| | | v) Other / Miscellaneous | 87 | 47 | -40 |
| | **3. General Services Total** | | **15,713** | **15,317** | **-396** |
| | 4. Travel & Hospitality | i) Travel | 7,184 | 7,343 | 159 |
| | | ii) Hospitality | 215 | 213 | -2 |
| | **4. Travel & Hospitality Total** | | **7,398** | **7,556** | **157** |
| | 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 | 1,430 | 25 |
| | | ii) Rental & Leasing of Equipment | 920 | 640 | -280 |
| | **6. Capital Expenditure Total** | | **2,325** | **2,070** | **-255** |
| | 7. Financial Expenditure | i) Bank & Interest Charges | 80 | 580 | 500 |
| | | ii) Building Loan Reimbursement | 1,200 | 1,200 | 0 |
| | **7. Financial Expenditure Total** | | **1,280** | **1,780** | **500** |
| C Operating Funds and ITC | | | | | |
| | 8. Contributions to ITC & Special Reserves | i) Contribution to ITC | 18,243 | 18,243 | 0 |
| | | iii) Ministerial Conference Operating Fund | 600 | 600 | 0 |
| | | iv) Building Renovation Fund | 600 | 600 | 0 |
| | **8. Contributions to ITC & Special Reserves Total** | | **19,443** | **19,443** | **0** |
| **Grand Total** | | | **189,624** | **189,624** | **0** |

**2020 Budget and 2021 Budget Proposal for the Appellate Body and Its Secretariat**
(in thousand Swiss francs)

| Part | Section | Line | 2019 | 2020 | Inc / Decr 2020 |
|---|---|---|---|---|---|
| A Staffing Resources | | | | | |
| | 1. Staff Expenditure | i) Staff Remuneration | 3,261 | 3,261 | 0 |
| | | ii) Staff Pension & Post-Employment Benefits | 730 | 730 | 0 |
| | | iii) Staff Health & Invalidity Insurance | 179 | 179 | 0 |
| | | iv) Staff Family & International Benefits | 361 | 361 | 0 |
| | | v) Other Staff Expenditure | 43 | 43 | 0 |
| | **1. Staff Expenditure Total** | | **4,573** | **4,573** | **0** |
| | 2. Temporary Assistance | i) Short-Term Staff | 55 | 55 | 0 |
| | | ii) Consulting | 25 | 25 | 0 |
| | | iii) Appellate Body Members Fees | 791 | 791 | 0 |
| | **2. Temporary Assistance Total** | | **871** | **871** | **0** |
| 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** | | **59** | **59** | **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** |
| 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** |
| **Grand Total** | | | **7,580** | **7,580** | **0** |

**Scale of Contributions for 2019-2020**

(in Swiss francs and with a minimum contribution of 0.015 percent)

| Member | 2019 Contribution CHF | 2019 Contribution % | 2020 Contribution CHF | 2020 Contribution % |
|---|---|---|---|---|
| Afghanistan | 46,920 | 0.024% | 44,965 | 0.023% |
| Albania | 41,055 | 0.021% | 41,055 | 0.021% |
| Angola | 428,145 | 0.219% | 379,270 | 0.194% |
| Antigua and Barbuda | 29,325 | 0.015% | 29,325 | 0.015% |
| Argentina | 733,125 | 0.375% | 719,440 | 0.368% |
| Armenia | 37,145 | 0.019% | 39,100 | 0.020% |
| Australia | 2,594,285 | 1.327% | 2,553,230 | 1.306% |
| Austria | 1,911,990 | 0.978% | 1,917,855 | 0.981% |
| Bahrain, Kingdom of | 246,330 | 0.126% | 238,510 | 0.122% |
| Bangladesh | 338,215 | 0.173% | 365,585 | 0.187% |
| Barbados | 29,325 | 0.015% | 29,325 | 0.015% |
| Belgium | 3,646,075 | 1.865% | 3,663,670 | 1.874% |
| Belize | 29,325 | 0.015% | 29,325 | 0.015% |
| Benin | 29,325 | 0.015% | 29,325 | 0.015% |
| Bolivia, Plurinational State of | 103,615 | 0.053% | 101,660 | 0.052% |
| Botswana | 74,290 | 0.038% | 72,335 | 0.037% |
| Brazil | 2,394,875 | 1.225% | 2,287,350 | 1.170% |
| Brunei Darussalam | 72,335 | 0.037% | 62,560 | 0.032% |
| Bulgaria | 310,845 | 0.159% | 318,665 | 0.163% |
| Burkina Faso | 33,235 | 0.017% | 33,235 | 0.017% |
| Burundi | 29,325 | 0.015% | 29,325 | 0.015% |
| Cabo Verde | 29,325 | 0.015% | 29,325 | 0.015% |
| Cambodia | 105,570 | 0.054% | 129,030 | 0.066% |
| Cameroon | 70,380 | 0.036% | 68,425 | 0.035% |
| Canada | 4,922,690 | 2.518% | 4,838,625 | 2.475% |
| Central African Republic | 29,325 | 0.015% | 29,325 | 0.015% |
| Chad | 39,100 | 0.020% | 39,100 | 0.020% |
| Chile | 731,170 | 0.374% | 703,800 | 0.360% |
| China | 19,737,680 | 10.096% | 20,142,365 | 10.303% |
| Colombia | 563,040 | 0.288% | 531,760 | 0.272% |
| Congo | 78,200 | 0.040% | 70,380 | 0.036% |
| Costa Rica | 152,490 | 0.078% | 158,355 | 0.081% |
| Côte d'Ivoire | 109,480 | 0.056% | 109,480 | 0.056% |
| Croatia | 220,915 | 0.113% | 230,690 | 0.118% |
| Cuba | 136,850 | 0.070% | 129,030 | 0.066% |
| Cyprus | 121,210 | 0.062% | 123,165 | 0.063% |
| Czech Republic | 1,388,050 | 0.710% | 1,405,645 | 0.719% |
| Democratic Republic of the Congo | 105,570 | 0.054% | 113,390 | 0.058% |
| Denmark | 1,517,080 | 0.776% | 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 | 164,220 | 0.084% | 168,130 | 0.086% |
| Ecuador | 228,735 | 0.117% | 218,960 | 0.112% |
| Egypt | 496,570 | 0.254% | 490,705 | 0.251% |
| El Salvador | 78,200 | 0.040% | 80,155 | 0.041% |
| Estonia | 175,950 | 0.090% | 175,950 | 0.090% |
| Eswatini | 29,325 | 0.015% | 29,325 | 0.015% |

| Member | 2019 Contribution CHF | 2019 Contribution % | 2020 Contribution CHF | 2020 Contribution % |
|---|---|---|---|---|
| European Union[37] | 0 | 0.000% | 0 | 0.000% |
| Fiji | 29,325 | 0.015% | 29,325 | 0.015% |
| Finland | 877,795 | 0.449% | 862,155 | 0.441% |
| France | 7,440,730 | 3.806% | 7,466,145 | 3.819% |
| Gabon | 60,605 | 0.031% | 66,470 | 0.034% |
| The Gambia | 29,325 | 0.015% | 29,325 | 0.015% |
| Georgia | 70,380 | 0.036% | 70,380 | 0.036% |
| Germany | 13,882,455 | 7.101% | 13,976,295 | 7.149% |
| Ghana | 166,175 | 0.085% | 168,130 | 0.086% |
| Greece | 608,005 | 0.311% | 631,465 | 0.323% |
| Grenada | 29,325 | 0.015% | 29,325 | 0.015% |
| Guatemala | 146,625 | 0.075% | 148,580 | 0.076% |
| 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 | 76,245 | 0.039% | 76,245 | 0.039% |
| Hong Kong, China | 5,427,080 | 2.776% | 5,548,290 | 2.838% |
| Hungary | 991,185 | 0.507% | 1,008,780 | 0.516% |
| Iceland | 76,245 | 0.039% | 80,155 | 0.041% |
| India | 4,445,670 | 2.274% | 4,455,445 | 2.279% |
| Indonesia | 1,722,355 | 0.881% | 1,673,480 | 0.856% |
| Ireland | 2,361,640 | 1.208% | 2,619,700 | 1.340% |
| Israel | 842,605 | 0.431% | 856,290 | 0.438% |
| Italy | 5,096,685 | 2.607% | 5,075,180 | 2.596% |
| Jamaica | 52,785 | 0.027% | 50,830 | 0.026% |
| Japan | 7,896,245 | 4.039% | 7,673,375 | 3.925% |
| Jordan | 168,130 | 0.086% | 168,130 | 0.086% |
| Kazakhstan | 570,860 | 0.292% | 508,300 | 0.260% |
| Kenya | 127,075 | 0.065% | 125,120 | 0.064% |
| Korea, Republic of | 5,777,025 | 2.955% | 5,669,500 | 2.900% |
| Kuwait, the State of | 645,150 | 0.330% | 594,320 | 0.304% |
| Kyrgyz Republic | 41,055 | 0.021% | 37,145 | 0.019% |
| Lao People's Democratic Republic | 37,145 | 0.019% | 46,920 | 0.024% |
| Latvia | 160,310 | 0.082% | 160,310 | 0.082% |
| Lesotho | 29,325 | 0.015% | 29,325 | 0.015% |
| Liberia | 29,325 | 0.015% | 29,325 | 0.015% |
| Liechtenstein | 64,515 | 0.033% | 64,515 | 0.033% |
| Lithuania | 316,710 | 0.162% | 322,575 | 0.165% |
| Luxembourg | 930,580 | 0.476% | 999,005 | 0.511% |
| Macao, China | 256,105 | 0.131% | 258,060 | 0.132% |
| Madagascar | 31,280 | 0.016% | 33,235 | 0.017% |
| Malawi | 29,325 | 0.015% | 29,325 | 0.015% |
| Malaysia | 1,966,730 | 1.006% | 1,923,720 | 0.984% |
| Maldives | 29,325 | 0.015% | 29,325 | 0.015% |
| Mali | 31,280 | 0.016% | 35,190 | 0.018% |
| Malta | 136,850 | 0.070% | 148,580 | 0.076% |
| Mauritania | 29,325 | 0.015% | 29,325 | 0.015% |

[37] The European Union is not subject to contributions. However, its current 28 members are assessed individually. The total share of members of the European Union represents 33.94% of the total assessed contributions for 2020.

| Member | 2019 Contribution CHF | 2019 Contribution % | 2020 Contribution CHF | 2020 Contribution % |
|---|---|---|---|---|
| Mauritius | 58,650 | 0.030% | 56,695 | 0.029% |
| Mexico | 3,720,365 | 1.903% | 3,802,475 | 1.945% |
| Moldova, Republic of | 37,145 | 0.019% | 35,190 | 0.018% |
| Mongolia | 54,740 | 0.028% | 54,740 | 0.028% |
| Montenegro | 29,325 | 0.015% | 29,325 | 0.015% |
| Morocco | 353,855 | 0.181% | 361,675 | 0.185% |
| Mozambique | 70,380 | 0.036% | 66,470 | 0.034% |
| Myanmar | 115,345 | 0.059% | 127,075 | 0.065% |
| Namibia | 50,830 | 0.026% | 48,875 | 0.025% |
| Nepal | 44,965 | 0.023% | 50,830 | 0.026% |
| Netherlands | 5,745,745 | 2.939% | 5,732,060 | 2.932% |
| New Zealand | 459,425 | 0.235% | 465,290 | 0.238% |
| Nicaragua | 54,740 | 0.028% | 56,695 | 0.029% |
| Niger | 29,325 | 0.015% | 29,325 | 0.015% |
| Nigeria | 656,880 | 0.336% | 586,500 | 0.300% |
| North Macedonia | 52,785 | 0.027% | 56,695 | 0.029% |
| Norway | 1,411,510 | 0.722% | 1,348,950 | 0.690% |
| Oman | 383,180 | 0.196% | 365,585 | 0.187% |
| Pakistan | 346,035 | 0.177% | 357,765 | 0.183% |
| Panama | 263,925 | 0.135% | 252,195 | 0.129% |
| Papua New Guinea | 62,560 | 0.032% | 62,560 | 0.032% |
| Paraguay | 111,435 | 0.057% | 113,390 | 0.058% |
| Peru | 418,370 | 0.214% | 416,415 | 0.213% |
| Philippines | 719,440 | 0.368% | 768,315 | 0.393% |
| Poland | 2,142,680 | 1.096% | 2,228,700 | 1.140% |
| Portugal | 772,225 | 0.395% | 787,865 | 0.403% |
| Qatar | 793,730 | 0.406% | 746,810 | 0.382% |
| Romania | 688,160 | 0.352% | 725,305 | 0.371% |
| Russian Federation | 3,937,370 | 2.014% | 3,657,805 | 1.871% |
| 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 | 2,326,450 | 1.190% | 2,162,230 | 1.106% |
| Senegal | 46,920 | 0.024% | 48,875 | 0.025% |
| Seychelles | 29,325 | 0.015% | 29,325 | 0.015% |
| Sierra Leone | 29,325 | 0.015% | 29,325 | 0.015% |
| Singapore | 4,774,110 | 2.442% | 4,744,785 | 2.427% |
| Slovak Republic | 768,315 | 0.393% | 780,045 | 0.399% |
| Slovenia | 303,025 | 0.155% | 310,845 | 0.159% |
| Solomon Islands | 29,325 | 0.015% | 29,325 | 0.015% |
| South Africa | 973,590 | 0.498% | 936,445 | 0.479% |
| Spain | 3,663,670 | 1.874% | 3,714,500 | 1.900% |
| Sri Lanka | 173,995 | 0.089% | 181,815 | 0.093% |
| Suriname | 29,325 | 0.015% | 29,325 | 0.015% |
| Sweden | 2,068,390 | 1.058% | 2,056,660 | 1.052% |
| Switzerland | 3,710,590 | 1.898% | 3,687,130 | 1.886% |
| Chinese Taipei | 3,384,105 | 1.731% | 3,286,355 | 1.681% |
| Tajikistan | 29,325 | 0.015% | 29,325 | 0.015% |
| Tanzania | 95,795 | 0.049% | 93,840 | 0.048% |

| Member | 2019 Contribution CHF | 2019 Contribution % | 2020 Contribution CHF | 2020 Contribution % |
|---|---|---|---|---|
| Thailand | 2,404,650 | 1.230% | 2,404,650 | 1.230% |
| Togo | 29,325 | 0.015% | 29,325 | 0.015% |
| Tonga | 29,325 | 0.015% | 29,325 | 0.015% |
| Trinidad and Tobago | 117,300 | 0.060% | 107,525 | 0.055% |
| Tunisia | 199,410 | 0.102% | 191,590 | 0.098% |
| Turkey | 2,011,695 | 1.029% | 2,009,740 | 1.028% |
| Uganda | 54,740 | 0.028% | 52,785 | 0.027% |
| Ukraine | 627,555 | 0.321% | 561,085 | 0.287% |
| United Arab Emirates | 3,071,305 | 1.571% | 3,102,585 | 1.587% |
| United Kingdom | 7,446,595 | 3.809% | 7,399,675 | 3.785% |
| United States of America | 22,660,405 | 11.591% | 22,855,905 | 11.691% |
| Uruguay | 144,670 | 0.074% | 138,805 | 0.071% |
| Vanuatu | 29,325 | 0.015% | 29,325 | 0.015% |
| Venezuela, Bolivarian Republic of | 570,860 | 0.292% | 568,905 | 0.291% |
| Viet Nam | 1,401,735 | 0.717% | 1,583,550 | 0.810% |
| Yemen | 89,930 | 0.046% | 80,155 | 0.041% |
| Zambia | 86,020 | 0.044% | 86,020 | 0.044% |
| Zimbabwe | 54,740 | 0.028% | 52,785 | 0.027% |
| **TOTAL** | **195,500,000** | **100.000%** | **195,500,000** | **100.000%** |

**WTO Staff Members by Nationality**
(as per information available on January 1, 2020)

| Member | Total | % |
|---|---|---|
| France | 41 | 11.0% |
| United States of America | 29 | 7.8% |
| Germany | 20 | 5.4% |
| Italy | 20 | 5.4% |
| United Kingdom | 19 | 5.1% |
| China | 16 | 4.3% |
| Canada | 14 | 3.8% |
| India | 13 | 3.5% |
| Spain | 13 | 3.5% |
| Brazil | 12 | 3.2% |
| Philippines | 11 | 2.9% |
| Australia | 8 | 2.1% |
| Mexico | 8 | 2.1% |
| Switzerland | 8 | 2.1% |
| Bulgaria | 5 | 1.3% |
| Colombia | 5 | 1.3% |
| Ireland | 5 | 1.3% |
| Japan | 5 | 1.3% |
| Netherlands | 5 | 1.3% |
| Peru | 5 | 1.3% |
| Austria | 4 | 1.1% |
| Egypt | 4 | 1.1% |
| Korea, Republic of | 4 | 1.1% |
| Pakistan | 4 | 1.1% |
| Russian Federation | 4 | 1.1% |
| Turkey | 4 | 1.1% |
| Finland | 3 | 0.8% |
| Greece | 3 | 0.8% |
| Morocco | 3 | 0.8% |
| Poland | 3 | 0.8% |
| Sweden | 3 | 0.8% |
| Tunisia | 3 | 0.8% |
| Ukraine | 3 | 0.8% |
| Benin | 2 | 0.5% |
| Bolivia, Plurinational State of | 2 | 0.5% |
| Costa Rica | 2 | 0.5% |
| Denmark | 2 | 0.5% |
| Ecuador | 2 | 0.5% |
| Ghana | 2 | 0.5% |
| Guinea | 2 | 0.5% |
| Hungary | 2 | 0.5% |
| Jamaica | 2 | 0.5% |
| Malaysia | 2 | 0.5% |
| Nepal | 2 | 0.5% |
| Uganda | 2 | 0.5% |
| Uruguay | 2 | 0.5% |
| Venezuela, Bolivarian Republic of | 2 | 0.5% |
| Zimbabwe | 2 | 0.5% |
| Argentina | 1 | 0.3% |
| Bangladesh | 1 | 0.3% |
| Barbados | 1 | 0.3% |
| Belgium | 1 | 0.3% |
| Botswana | 1 | 0.3% |
| Burkina Faso | 1 | 0.3% |
| Burundi | 1 | 0.3% |

| Member | Total | % |
|---|---|---|
| Cameroon | 1 | 0.3% |
| Chad | 1 | 0.3% |
| Chile | 1 | 0.3% |
| Croatia | 1 | 0.3% |
| Czech Republic | 1 | 0.3% |
| Democratic Republic of the Congo | 1 | 0.3% |
| Estonia | 1 | 0.3% |
| Guatemala | 1 | 0.3% |
| Jordan | 1 | 0.3% |
| Kenya | 1 | 0.3% |
| Lithuania | 1 | 0.3% |
| Malawi | 1 | 0.3% |
| Mauritius | 1 | 0.3% |
| Moldova, Republic of | 1 | 0.3% |
| New Zealand | 1 | 0.3% |
| Nigeria | 1 | 0.3% |
| Norway | 1 | 0.3% |
| Portugal | 1 | 0.3% |
| Romania | 1 | 0.3% |
| Rwanda | 1 | 0.3% |
| Senegal | 1 | 0.3% |
| Seychelles | 1 | 0.3% |
| Sierra Leone | 1 | 0.3% |
| South Africa | 1 | 0.3% |
| Tanzania | 1 | 0.3% |
| The Gambia | 1 | 0.3% |
| Trinidad and Tobago | 1 | 0.3% |
| Viet Nam | 1 | 0.3% |
| Zambia | 1 | 0.3% |
| **Total** | **373** | **100.0%** |

**WAIVERS CURRENTLY IN FORCE**
(as of December 31, 2019)

| WAIVER | DECISION | DATE of ADOPTION of DECISION | GRANTED UNTIL | REPORT in 2019[38] |
|---|---|---|---|---|
| **Granted in 2019** | | | | |
| Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions[39] | WT/L/1082 | 10 December 2019 | 31 December 2020 | - |
| Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions[40] | WT/L/1083 | 10 December 2019 | 31 December 2020 | - |
| Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions[41] | WT/L/1084 | 10 December 2019 | 31 December 2020 | - |
| Introduction of Harmonized System 2017 Changes into WTO Schedules of Tariff Concessions[42] | WT/L/1085 | 10 December 2019 | 31 December 2020 | - |
| Preferential Tariff Treatment for Least-Developed Countries – Decision on Extension of waiver | WT/L/1069 | 16 October 2019 | 30 June 2029 | - |
| United States – Caribbean Basin Economic Recovery Act | WT/L/1070 | 16 October 2019 | 30 September 2025 | - |

[38] Applicable if so stipulated in the corresponding waiver Decision.
[39] The Member which has requested to be covered under this waiver is: China.
[40] The Members which have requested to be covered under this waiver are: Argentina; Brazil; China; Dominican Republic; European Union; Malaysia; Philippines; and Thailand.
[41] 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; Hong Kong, China; India; Kazakhstan; Republic of Korea; Malaysia; Mexico; New Zealand; Norway; Philippines; Russian Federation; Singapore; Switzerland; Thailand; and United States.
[42] 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; Republic of Korea; Macao, China; Montenegro; New Zealand; Norway; Pakistan; Paraguay; Philippines; 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 2019[43] |
|---|---|---|---|---|
| **Previously granted – in force in 2019** | | | | |
| Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions[44] | WT/L/1048 | 12 December 2018 | 31 December 2019 | - |
| Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions[45] | WT/L/1049 | 12 December 2018 | 31 December 2019 | - |
| Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions[46] | WT/L/1050 | 12 December 2018 | 31 December 2019 | - |
| Introduction of Harmonized System 2017 Changes into WTO Schedules of Tariff Concessions[47] | WT/L/1051 | 12 December 2018 | 31 December 2019 | - |
| Kimberly Process Certification Scheme for Rough Diamonds - Extension of Waiver[48] | WT/L/1039 | 26 July 2018 | 31 December 2024 | - |
| United States – Former Trust Territory of the Pacific Islands | WT/L/1000 | 7 December 2016 | 31 December 2026 | WT/L/1074 |
| United States – Trade Preferences granted to Nepal | WT/L/1001 | 7 December 2016 | 31 December 2025 | WT/L/1075 |
| European Union – Application of Autonomous Preferential Treatment to the Western Balkans | WT/L/1002 | 7 December 2016 | 31 December 2021 | WT/L/1077 |
| Cuba – Article XV:6 – Extension of waiver | WT/L/1003 | 7 December 2016 | 31 December 2021 | WT/L/1076 |

[43] Applicable if so stipulated in the corresponding waiver Decision.
[44] The Member which has requested to be covered under this waiver is: China.
[45] The Members which have requested to be covered under this waiver are: Argentina; Brazil; China; Dominican Republic; European Union; Malaysia; Philippines; and Thailand.
[46] 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; Hong Kong, China; India; Kazakhstan; Republic of Korea; Macao, China; Malaysia; Mexico; New Zealand; Norway; Philippines; Russian Federation; Singapore; Switzerland; Thailand; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; and United States.
[47] The Members which have requested to be covered under this waiver are: Argentina; Brazil; Canada; China; Colombia; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; Honduras; Hong Kong, China; India; Israel; Kazakhstan; Republic of Korea; Macao, China; Montenegro; New Zealand; Norway; Pakistan; Paraguay; Philippines; Russian Federation; Switzerland; Thailand; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; United States; and Uruguay.
[48] Annex: Australia; Botswana; Brazil; Cambodia; Canada; European Union; Guyana; India; Japan; Kazakhstan; Republic of Korea; Malaysia; Mauritius; Montenegro; Namibia; Norway; Panama; Russian Federation; Sierra Leone; Singapore; South Africa; Sri Lanka; Switzerland; Thailand; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey; Ukraine; and United States.

| WAIVER | DECISION | DATE of ADOPTION of DECISION | GRANTED UNTIL | REPORT in 2019[43] |
|---|---|---|---|---|
| **Previously granted – in force in 2019** | | | | |
| Implementation of Preferential Treatment in favour of Services and Service Suppliers of LDCs and Increasing LDC Participation in Services Trade[49] | WT/L/982 WT/MIN(15)/48 | 19 December 2015 | 31 December 2030[50] | - |
| United States – African Growth and Opportunity Act | WT/L/970 | 30 November 2015 | 30 September 2025 | WT/L/1073 |
| 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/1065 |
| United States – Caribbean Basin Economic Recovery Act | WT/L/950 | 5 May 2015 | 31 December 2019 | WT/L/1063 |
| Operationalization of the Waiver concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries[51] | WT/MIN(13)/43 WT/L/918 | 7 December 2013 | - | - |
| Preferential Treatment to Services and Service Suppliers of Least-developed countries[52] | WT/L/847 | 17 December 2011 | 15 years from the date of its adoption[53] | - |
| 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[54] | WT/L/540 and WT/L/540/Corr.1 | 30 August 2003 | See WT/L/540 and WT/L/540/Corr.1 | IP/C/84 |

[49] 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 below.

[50] 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 below.

[51] 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.

[52] 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 above and the decision in WT/MIN(13)/43 – WT/L/918.

[53] At the Nairobi Ministerial Conference, Ministers decided to extend the waiver until 31 December 2030 (WT/MIN(15)/48 – WT/L/982) - see also above.

[54] 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.47**

25 June 2019

**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.[1] The list is based on the previous indicative list issued on 1 May 2019 (WT/DSB/44/Rev.46). It includes additional names approved by the DSB at its meetings on 24 June 2019.[2] 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.

[1] Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (Council & TNC Division).
[2] See document WT/DSB/W/645.

| 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 |
| | | |
| **BOLIVIA, PLURINATIONAL STATE OF** | ZELADA CASTEDO, Mr. Alberto | Trade in Goods |
| | | |
| **BRAZIL** | AMARAL DE ANDRADE JUNQUEIRA, Ms. Carla | Trade in Goods |
| | BARRAL, Mr. Welber Oliveira | Trade in Goods |
| | BASSO, Ms. Maristela | Trade in Goods; TRIPS |
| | BENTES, Mr. Pablo M. | Trade in Goods and Services; TRIPS |
| | BERENHOLC, Mr. Mauro | Trade in Goods |
| | CAETANO DE MARINIS, Ms. Ana Teresa | Trade in Goods |
| | CASTAÑON PENHA VALLE, Ms. Marília | Trade in Goods |
| | CELLI JUNIOR, Mr. Umberto | Trade in Goods and Services |
| | DE CAMARGO VIDIGAL NETO, Mr. Geraldo | Trade in Goods |
| | DO AMARAL JÚNIOR, Mr. Alberto | Trade in Goods and Services; TRIPS |
| | KANAS GRYTZ, Ms. Vera | Trade in Goods |
| | KANITZ, Mr. Roberto H. | Trade in Goods |
| | KRAMER, Ms. Cynthia | Trade in Goods; TRIPS |
| | MANZANO SAYEG, Ms. Fernanda | Trade in Goods and Services |
| | MEDRADO, Mr. Renê Guilherme S. | Trade in Goods |
| | NASSER, Mr. Rabih | Trade in Goods |
| | PUPO, Mr. Rodrigo Luís | Trade in Goods |
| | SALDANHA-URES, Ms. Carolina | Trade in Goods |
| | SETTI DIAZ, Mr. José | Trade in Goods |
| | THORSTENSEN, Ms. Vera Helena | Trade in Goods |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | | |
| **CAMEROON** | NGANGJOH HODU, Mr. Yenkong | Trade in Goods and Services; TRIPS |
| | | |
| **CANADA** | BERNIER, Mr. Ivan | Trade in Goods and Services |
| | BRADFORD, Mr. Meriel V. M. | Trade in Goods and Services |
| | BROWN, Ms. Catherine Anne | Trade in Goods and Services; TRIPS |
| | CLARK, Mr. Peter James | Trade in Goods and Services |
| | CLOSE, Ms. Patricia Margaret | Trade in Goods |
| | DE MESTRAL, Mr. Armand | Trade in Goods |
| | EYTON, Mr. Anthony T. | Trade in Goods |
| | GHERSON, Mr. Randolph | Trade in Goods |
| | GOODWIN, Ms. Kirsten M. | Trade in Goods and Services; TRIPS |
| | 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 |
| | JANA, Mr. Álvaro | Trade in Goods |
| | MATUS, Mr. Mario | Trade in Goods |
| | MLADINIC, Mr. Carlos | Trade in Goods |
| | PEÑA, Ms. Gloria | Trade in Goods |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | 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 |
| | 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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | 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 |
| | 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 |
| | GAWAD ALLAM, Mr. Mohamed. A. | Trade in Goods and Services |
| | HATEM, Mr. Samy Affify | Trade in Goods |
| | RIAD, Mr. Tarek Fouad | Trade in Goods and Services; TRIPS |
| | SHAHIN, Ms. Magda | Trade in Goods and Services; TRIPS |
| | SHARAF ELDIN, Mr. Ahmed | Trade in Goods; TRIPS |
| | ZAHRAN, Mr. Mohamed Mounir | Trade in Goods and Services; TRIPS |
| | | |
| **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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | | |
| **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 |
| | WOUTERS, Mr. Jan | Trade in Goods and Services |
| | ZONNEKEYN, Mr. Geert A. | Trade in Goods |
| | | |
| **CZECH REPUBLIC** | PALEĈKA, 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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | 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 |
| | 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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | | |
| **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 |
| | | |
| **SPAIN** | 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 |
| | JOHANSSON, Ms. Lena | Trade in Goods and Services |
| | REITER, Mr. Joakim H. | Trade in Goods and Services |
| | STELLINGER, Ms. Anna | Trade in Goods and Services; TRIPS |
| | WALDER, Ms. Eva | Trade in Goods and Services |
| | | |
| **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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | | |
| **HONG KONG, CHINA** | CARTLAND, Mr. Michael David | Trade in Goods and Services |
| | CHEUNG, Mr. Peter Kam Fai | TRIPS |
| | LEUNG, Ms. Ada Ka Lai | TRIPS |
| | LITTLE, Mr. David | Trade in Goods and Services |
| | MILLER, Mr. Tony J.A. | Trade in Goods and Services |
| | | |
| **ICELAND** | BJÖRGVINSSON, Mr. David Thór | Trade in Goods and Services |
| | JÓHANNSSON, Mr. Einar M. | Trade in Goods |
| | SANDHOLT, Mr. Brynjolfur | Trade in Goods |
| | | |
| **INDIA** | AGARWAL, Mr. Vinod Kumar | Trade in Goods; TRIPS |
| | AGRAWAL, Mr. Rameshwar Pal | Trade in Goods and Services; TRIPS |
| | BHANSALI, Mr. Sharad | Trade in Goods |
| | BHATNAGAR, Mr. Mukesh | Trade in Goods |
| | BHATTACHARYA, Mr. G. C. | Trade in Goods |
| | 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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | PRABHU, Mr. Pandurang Palimar | Trade in Goods; TRIPS |
| | PRASAD, Ms. Anjali | Trade in Goods and Services; TRIPS |
| | RAMAKRISHNAN, Mr. N. | Trade in Goods |
| | RAO, Mr. Pemmaraju Sreenivasa | Trade in Goods |
| | REGE, Mr. Narayan Vinod | Trade in Goods |
| | SABHARWAL, Mr. Narendra | TRIPS |
| | SAJJANHAR, Mr. Ashok | Trade in Goods |
| | SESHADRI, Mr. V.S. | Trade in Goods |
| | 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 |
| | | |
| **INDONESIA** | KOESNAIDI, Mr. Joseph Wira | Trade in Goods |
| | LIMENTA, Ms. Michelle Engel | Trade in Goods; TRIPS |
| | WINANTI, Ms. Poppy Sulistyaning | Trade in 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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | | |
| **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 |
| | 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 |
| | 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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | 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 |
| | | |
| **KYRGYZ REPUBLIC** | DJUMALIEV, Mr. Muktar | Trade in Goods and Services |
| | | |
| **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** | 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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | 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, REP. OF** | 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 |
| | | |
| **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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | NNONA, Mr. George C. | Trade in Goods and Services; TRIPS |
| | | |
| **NORWAY** | ANDREASSEN, Mr. Harald | Trade in Goods and Services; TRIPS |
| | BLOM, Ms. Camilla | Trade in Goods and Services |
| | EDVARTSEN, Ms. Linn | Trade in Goods |
| | FLEISCHER, Ms. Benedicte | Trade in Goods and Services |
| | HANSEN, Ms. Kristin | Trade in Goods and Services |
| | HOLTEN, Ms. Inger | Trade in Goods; TRIPS |
| | LILLERUD, Mr. Kjell | Trade in Goods and Services |
| | MIDTBØ STADSHAUG, Ms. Kaja | TRIPS |
| | NEPLE, Mr. Harald | Trade in Goods and Services |
| | SANDVIK, Mr. Jostein | TRIPS |
| | SELAND, Mr. Helge A. | Trade in Goods and Services; TRIPS |
| | SKEI, Mr. Jonas | Trade in Goods |
| | VEDERHUS, Mr. Alf | Trade in Goods |
| | | |
| **PAKISTAN** | ARIF, Mr. Muhammad Ikram | Trade in Goods |
| | BASHIR, Mr. Shahid | Trade in Goods |
| | HAMID ALI, Mr. Muhammad | Trade in Goods; TRIPS |
| | HUSAIN, Mr. Ishrat | Trade in Services |
| | KHAN, Mr. Mujeeb Ahmed | Trade in Goods; TRIPS |
| | MALIK, Mr. Riaz Ahmad | Trade in Goods |
| | MUKHTAR, Mr. Ahmad | Trade in Goods and Services; TRIPS |
| | | |
| **PANAMA** | 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 |
| | | |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| **PERU** | BELAÚNDE G., Mr. Victor Andres | TRIPS |
| | DE LA PUENTE LEON, Mr. Jose A. | Trade in Goods and Services |
| | DIEZ LIZARDO, Mr. Juan | Trade in Goods |
| | LEÓN-THORNE, Mr. Raúl | Trade in Goods and Services |
| | | |
| **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 |
| | HONG, Ms. Fan Sin Daphne | Trade in Services; TRIPS |
| | ITHNAIN, Mr. Rossman | Trade in Goods |
| | KWOK, Mr. Fook Seng | Trade in Goods |
| | LOH, Mr. K. Y. Derek | Trade in Goods and Services; TRIPS |
| | NG, Ms. Bee Kim | Trade in Goods |
| | ONG, Mr. Chin Heng | Trade in Goods and Services |
| | TAN, Mr. T. K. Jason | Trade in Goods and Services |
| | YEOW, Ms. P. L. Danielle | Trade in Goods and Services; TRIPS |
| | | |
| **SRI LANKA** | JAYASEKERA, Mr. Douglas | Trade in Goods; TRIPS |
| | | |
| **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 |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | 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. Hüsnü | Trade in Goods |
| | GÜRAKAN, Ms. Tulû | Trade in Goods |
| | KABAALİOĞLU, Mr. A. Haluk | Trade in Goods and Services |
| | KAÇAR, Mr. Bayram | Trade in Goods |
| | MOLLASALIHOĞLU, Mr. Yavuz | Trade in Goods |
| | YAMAN, Mr. Şahin | Trade in Goods |
| | YAPICI, Mr. Murat | Trade in Goods |
| | YENAL, Mr. Aytaç | Trade in Goods |
| | | |
| **UNITED STATES** | BROWN-WEISS, Ms. Edith | Trade in Goods and Services |
| | CONNELLY, Mr. Warren | Trade in Goods |
| | GANTZ, Mr. David A. | Trade in Goods |

| MEMBER | NAME | SECTORAL EXPERIENCE |
|---|---|---|
| | 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 |
| | | |
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| | 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 |
| | | |
| **VENEZUELA, BOLIVARIAN REPUBLIC OF** | ESCOBAR, Mr. José Benjamín | Trade in Services |
| | MARQUEZ, Mr. Guillermo | Trade in Services |
| | ROJAS PENSO, Mr. Juan Francisco | Trade in Goods and Services |

## Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

*General DSU requirements*

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements". The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

*Submission of information*

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

*Updating of indicative list*

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by

proposing new names for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

*Other rosters*

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns". It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council". A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU". The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached.

Summary Curriculum Vitae
for Persons Proposed for the Indicative List[57]

| | | |
|---|---|---|
| **1.** | **Name** | full name |
| **2.** | **Sectoral Experience**<br>List here any particular sectors of expertise:<br>(e.g. technical barriers, dumping, financial services, intellectual property, etc.) | |
| **3.** | **Nationality(ies)** | all citizenships |
| **4.** | **Nominating Member** | the nominating Member |
| **5.** | **Date of birth:** | full date of birth |
| **6.** | **Current occupations:** | year beginning, employer, title, responsibilities |
| **7.** | **Post-secondary education** | year, degree, name of institution |
| **8.** | **Professional qualifications** | year, title |
| **9.** | **Trade-related experience in Geneva in the WTO/GATT system** | |
| | a. Served as a panelist | year, dispute name, role as chairperson/member |
| | b. Presented a case to a panel | year, dispute name, representing which party |
| | c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof | year, body, role |
| | d. Worked for the WTO or GATT Secretariat | year, title, activity |
| **10**. | **Other trade-related experience** | |
| | a. Government trade work | year, employer, activity |

[57] Members putting forward an individual for inclusion on the indicative list are requested to provide full contact details for this individual separately. The Summary Curriculum Vitae and the contact details should be sent electronically to the Secretariat.

| | | |
|---|---|---|
| | b. 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, 2019**

Pursuant to the DSU, the DSB envisions 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 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 from July 1, 2019 to December 10, 2019, Mr. Bhatia served as Chairperson from January 1, 2017 to December 31, 2018, and Ms. Hong Zhao served as Chairperson from January 1, 2019 to June 30, 2019 and from December 11, 2019 to December 31, 2019.

From January 1, 2019 to December 10, 2019, the membership of the WTO Appellate Body was as follows (in alphabetical order): Mr. Ujal Singh Bhatia (India), Mr. Thomas Graham (United States), and Ms. Hong Zhao (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. communications to WTO Members 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 in WTO disputes are 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

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