



INTERNATIONAL
TRADE
ADMINISTRATION

2016 WITA-GWU Intensive Trade Seminar

*Policy Monitoring and
Dispute Settlement*

The U.S. Department of Commerce Role

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Enforcement & Compliance

Unofficial Document – For Presentation Purposes Only

The Enforcement & Compliance (E&C) Mission

E&C makes the system work for U.S. industry and workers

- Trade Agreements Monitoring and Compliance
- Enforcement of U.S. Trade Remedy Laws
- Administration of U.S. Foreign Trade Zone (FTZ) Program

The Concept

- Leverage unique Commerce connections to industry and broad expertise and reach
- Goal: fix problems in a commercially-meaningful timeframe
- Key component of a robust trade USG enforcement strategy

The Tools

- U.S. Statutory and WTO Authority
- U.S. Anti-Dumping (AD) and Countervailing Duty (CVD) Laws
- Trade Agreement Negotiations and Operation
- Capacity Building
- Trade Agreements Compliance Programs and Offices

Trade Agreements and E&C

- For key trade disciplines, E&C represents Commerce in bilateral, regional, and multilateral trade agreement negotiations
- Goal: secure strong, binding commitments that open markets and guarantee fair treatment for U.S. industry
- Once agreements are in force, E&C monitors their operation and seeks trading partner compliance with their commitments

E&C Trade Agreements Compliance Activities

- **Instruments:**
 - Trade Agreements Compliance Program
 - Trade Remedies Compliance Staff
 - Subsidies Enforcement Office
- **Fulfill Commerce statutory responsibility** to monitor compliance with international trade agreements to which the United States is a party (19 USCS § 2171)
- **Compliance** (voluntary) **preferable to enforcement** (dispute settlement), but issues can be referred to USTR and the interagency as appropriate to guarantee U.S. rights

Office of Trade Agreements Negotiations and Compliance (TANC)

- **Administers *the ITA Trade Agreements Compliance Program***
- **3 Program Elements:**
 - Monitor trade agreement operation
 - Investigate foreign government non-compliance, and engage those governments to attempt resolution short of dispute settlement
 - Outreach to industry to raise awareness

TANC Success Examples

- ITA secured end of discriminatory Mexican technical regulations on high density polyethylene plastic piping that contravened WTO Technical Barriers to Trade (TBT) obligations and would have excluded industry from a \$100 mil+ market.
- ITA helped a small California-based company overcome being unfairly excluded from competing for a government procurement tender in Chile worth \$400,000. Leveraging the U.S.-Chile FTA, ITA pressed the Chilean government to reconsider the company's eligibility to compete for this project, and opened the door for future opportunities for the firm.
- ITA and other USG agencies advocated on behalf of Harley-Davidson when it was denied duty-free access for its motorcycles, as provided for under the U.S.-Bahrain Free Trade Agreement (FTA). The team provided Bahrain guidance on the FTA rules of origin for transshipped goods, and as a result, Bahrain allowed for transshipment stop-overs, and H-D was able to keep selling to the region.

Trade Remedy Compliance Staff (TRCS)

- Over \$12 billion in U.S. exports were affected by foreign use of trade remedies (antidumping, countervailing duty and safeguards) in 2013
- Monitors foreign trade remedy actions for compliance with WTO rules - 100 trade remedy measures against the U.S. by more than 20 countries
- Advocates for U.S. exporters that are treated unfairly or inconsistent with WTO rules - in 2013, helped resolve 31 trade remedy actions accounting for over \$7 billion in U.S. exports

Subsidies Enforcement Office (SEO)

- Provide monitoring, analysis, counseling and advocacy services to U.S. manufacturers, exporters and workers harmed by unfair foreign government subsidization
- Identify and monitor foreign subsidies – 900+
- Coordinate multilateral enforcement efforts with USTR
- Produce an annual Subsidies Enforcement Report to Congress
- Advise USG agencies on how to structure U.S. programs

U.S. Trade Remedy Laws

- **Antidumping (AD) and Countervailing Duty (CVD)** laws allow the U.S. to counter unfair foreign pricing and/or government subsidies may distort the free flow of goods and adversely affect business in a given country's market.
- Trade remedy investigations are an accepted course for dealing with unfair trade practices and the appropriate use of measures to address these practices plays an important role in maintaining support for open markets and increased trade.

Trade Remedy Administration

- Commerce administers two trade remedy mechanisms: antidumping and countervailing duty laws
 - U.S. operates a bifurcated trade remedy regime; the International Trade Commission determines injury.
- Volume of cases is driven by U.S. industry
 - Statutory timeframes;
 - Governed by U.S. law/regulations and WTO Agreements;
- Cases are quasi-judicial
 - In-depth analysis and case records;
 - Transparency, due process and rules-based decision-making;
 - Subject to judicial review;
- May result in increased import duties at the border
 - U.S. Customs and Border Protection collects duties.

The Future

- Trade agreement architecture creates opportunity abroad for industry
- Fair and transparent trade laws as the gold standard
- Company success is the best advertisement