



# 2022 TRADE POLICY AGENDA & 2021 ANNUAL REPORT

*of the* PRESIDENT *of the* UNITED STATES  
*on the* TRADE AGREEMENTS PROGRAM

# FOREWORD

The 2022 Trade Policy Agenda and 2021 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. This report includes an annex listing trade agreements entered into by the United States since 1984. This report also includes an annex on U.S. trade in 2021, for which goods trade data by country are for full year 2021 and full-year services data by country are for 2020 (latest data available).

The Office of the United States Trade Representative (USTR) is responsible for the preparation of this document and gratefully acknowledges the contributions of all USTR staff to its writing and production. We note, in particular, the contributions of Mitchell Ginsburg, David Oliver, Russell Smith, and Spencer Smith. Appreciation is extended to partner Trade Policy Staff Committee agencies.

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# LIST OF FREQUENTLY USED ACRONYMS

AD.....	Antidumping
AfCTA .....	African Continental Free Trade Area
AGOA .....	African Growth and Opportunity Act
APEC .....	Asia-Pacific Economic Cooperation
ASEAN .....	Association of Southeast Asian Nations
CAFTA-DR.....	Dominican Republic–Central America–United States Free Trade Agreement
CBERA .....	Caribbean Basin Economic Recovery Act
CBI.....	Caribbean Basin Initiative
CBP .....	U.S. Department of Homeland Security Customs and Border Protection
CVD.....	Countervailing Duty
DOL .....	U.S. Department of Labor
DSB.....	WTO Dispute Settlement Body
DSU .....	WTO Dispute Settlement Understanding
DST .....	Digital Services Tax
EU <sup>1</sup> .....	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 Indication
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
MENA.....	Middle East and North Africa
MFN.....	Most-Favored-Nation
MOU .....	Memorandum of Understanding
NAFTA .....	North American Free Trade Agreement
OECD.....	Organization for Economic Cooperation and Development
SBA.....	U.S. Small Business Administration
SCM.....	WTO Agreement on Subsidies and Countervailing Measures
SME .....	Small and Medium-Sized Enterprise

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<sup>1</sup> Unless specified otherwise, all references to the European Union refer to the EU-27.

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
USAID.....	U.S. Agency for International Development
USITC.....	U.S. International Trade Commission
USMCA.....	United States–Mexico–Canada Agreement
USTR.....	United States Trade Representative
WTO.....	World Trade Organization

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**THE PRESIDENT'S  
2022 TRADE POLICY AGENDA**

# THE PRESIDENT’S TRADE POLICY AGENDA

## I. INTRODUCTION

The Biden Administration recognizes that trade can—and should—be a force for good. Done right, and in coordination with other policy disciplines, it can grow the middle class, redress inequality, and level the playing field by promoting fair competition. We remain committed to upholding a fair and open global trading system – one that follows through on our trading partners’ longstanding commitment to conduct economic relations with a view to raising standards of living, ensuring full employment, and promoting sustainable development.

To realize these goals, we must take stock of what has worked and what has not. This requires us to identify and rethink aspects of the existing trading system that incentivize or enable unfair competition.

Competition in a global market provides Americans access to a wider variety of goods and services at competitive prices. But, too often our existing global trade rules have rewarded advantages that are not based on fair competition – or American values more broadly. Consumers in the global marketplace are also wage earners and producers, and members of broader communities that feel the effects of our trade policies. A trade model that promotes exploitation, whether of workers or the environment, is not efficient – it is a form of unfair competition. And it is not sustainable.

For these reasons, the Administration continues to advance its worker-centered trade policy. We are standing up for workers’ rights – but it is more than that. We are promoting a broader agenda of fair competition to ensure that workers are competing on the basis of skills and creativity, not exploitative cost advantages. We are laser-focused on working with partners and allies to chart new trade rules that do more to advance decarbonization and other critical environmental standards, support U.S. farmers, promote sustainable and resilient supply chains, and combat the COVID-19 pandemic. Through this approach, we can harness fair competition and support the American middle class with increased prosperity while promoting core American values.

As President Biden has explained, “[We] will pursue new rules of global trade and economic growth that strive to level the playing field so that it’s not artificially tipped in favor of any one country at the expense of others, and every nation has a right and the opportunity to compete fairly.”

Exploitation of workers and the environment are not the only forms of unfair practices that distort global trade at the expense of Americans. We must recognize that China, as a large, non-market economy, has uniquely distorted global trade through its economic policies and practices, causing harm to U.S. production, investment, and even consumption. In many ways, China’s integration into the global trading system has highlighted weaknesses in the current system – and the urgent need for reform. Lack of protections for workers, a weak environmental regime, and anticompetitive subsidies are the hallmarks of China’s artificial comparative advantage. It is an advantage that puts others out of business and violates any notion of fair competition.

That’s why the Biden Administration is realigning our trade policies towards China to defend the interests of America’s workers and businesses to strengthen our middle-class, create shared sustainable growth, and spur resilient climate action. We are working to counter China’s unfair economic practices, including by raising our concerns directly with China and working with our partners and allies to address shared challenges.

We know we cannot effectively advance our worker-centered trade policy alone. Many of our partners and allies share our goal of a fairer, more sustainable international economic regime, and we are steadily forging the partnerships necessary to update and enforce the rules governing the global economy and trade. One example is the Administration’s success in rallying the world behind a Global Minimum Tax on corporations to address yet another race to the bottom that, among other things, has deprived the United States of resources that should rightfully allow for investment in communities here at home. Another is the deal we reached with the European Union (EU) to combat global oversupply in the steel and aluminum industry and negotiate a first-of-its-kind trade arrangement predicating market access on the greenhouse gas emissions of imported steel and aluminum. A third example is the agreements we reached with the EU and the UK to resolve the longstanding aircraft disputes involving Boeing and Airbus, which allowed us to move past a perennial irritant and focus on shared interests, including financing on market terms and the challenges posed by non-market economies. We are building on this momentum to advance broader goals of fair competition through all available avenues, whether bilateral, regional, or multilateral discussions; existing trade agreements and frameworks; or new initiatives. Where the scope of the challenge requires new tools, we will pursue them as well.

A vital element of our effort to build an inclusive trade policy agenda is understanding the effects of our policies on underrepresented and underserved workers and communities, and ensuring that they have a say in how our policies are designed going forward. A more inclusive framework will lead to more durable trade policy. Approaches to trade that rest on a narrow base of support are unsustainable, and could ultimately undermine U.S. leadership at a critical juncture. While our ambition is high, we are rising to the challenge.

Precisely because it is focused on workers as the engine of the global economy, the Biden Administration’s trade policy will be a force for good – and will lead to a more durable, stable, and resilient trading system.

## **II. ADVANCING A WORKER-CENTERED TRADE POLICY**

### **A. Standing Up for Workers’ Rights**

The Biden Administration’s worker-centered trade policy reflects our commitment to use our trade agreements, tools, and relationships to empower workers. We are working with our trading partners to support workers’ rights and stop the global race to the bottom. We will seek to establish new, high-standard commitments on labor rights under our current and new frameworks for trade. Strengthening labor rights will benefit American workers, as well as workers all over the world.

One of our top priorities is effective implementation and enforcement of the United States–Mexico–Canada Agreement (USMCA). The Agreement includes the strongest labor provisions in any trade agreement ever, as well as a ground-breaking enforcement tool, the rapid response mechanism (RRM). The RRM allows the United States to quickly take action and target specific facilities in Mexico where workers are being denied their rights to freedom of association and collective bargaining.

In 2021, the United States successfully used the mechanism to secure concrete wins for workers in two different instances.

The Biden Administration self-initiated the first-ever request for review under the RRM in May 2021, concerning a General Motors facility in Silao, Mexico. On February 3, 2022, workers at the plant overwhelmingly voted in favor of a new union to represent their interests and to negotiate a new collective bargaining agreement with the company. This outcome shows that new tools can help us work with allies and trading partners—such as Mexico—to reverse the race to the bottom.

The United States also requested a review under the RRM pursuant to a petition filed by the AFL-CIO, SEIU, Public Citizen, and SNITIS (a Mexican union) alleging a denial of workers' rights at a Tridonex automotive parts facility in Matamoros, Mexico. In this instance, the Office of the U.S. Trade Representative (USTR) negotiated an extensive set of commitments with Tridonex, including severance and backpay for a large number of former Tridonex workers, as well as a commitment that the company will remain neutral in future union representation elections.

These two actions form a strong foundation for our ongoing work to advance labor rights in 2022. The U.S. Department of Labor, working with USTR, will continue to support workers on the ground and work with the Government of Mexico to closely monitor situations that may involve violations of workers' rights.

In 2021, the Administration undertook several efforts that will provide the foundation for further action in 2022 to advance workers' rights and create sustainable growth.

- USTR introduced as part of the ongoing fisheries subsidies negotiations at the World Trade Organization (WTO) a proposal to address the use of forced labor on fishing vessels. The Administration sees the continued acceptance and use of forced labor and its association with illegal, unreported, and unregulated (IUU) fishing as a fundamental test of the credibility of the trading system and will continue to press WTO members to address this issue in 2022
- The Biden Administration fought hard to elevate the problem of forced labor in supply chains with our trading partners. The Group of 7 Trade Ministers' communiqué expresses a shared desire for member countries to work together, along with businesses, to combat this problem. The communiqué is based on international standards and reflects the U.S. Government toolkit that has been cultivated over the last 25 years to combat this harmful practice. The United States will continue to work with our trading partners to highlight, and spur progress on, the scourge of forced labor.
- Tackling forced labor will also require cooperation and leadership from the private sector. In July 2021, the United States issued an updated advisory for U.S. businesses whose supply chains run through Xinjiang, China, where the Government of the People's Republic of China (PRC) and associated enterprises continue to subject Uyghurs and other ethnic and religious minorities to forced labor. The United States will continue to work with industry to rid supply chains of forced labor, and hold bad actors accountable.
- On January 14, 2022, the Uyghur Forced Labor Prevention Act entered into force. This law will support USTR's efforts to eliminate the use of forced labor. USTR will continue to work with the U.S. Government's Forced Labor Enforcement Task Force, including U.S. Department of Homeland Security and U.S. Department of Labor, to monitor and block the importation of goods made in whole, or in part, with forced labor.
- On January 25, 2022, USTR announced that it will develop its first-ever focused trade strategy to combat forced labor. It will include a thorough interagency review of USTR's existing trade policies and tools to combat forced labor, to determine areas that may need strengthening, and to identify gaps that need to be filled. USTR will undertake an inclusive process that maximizes input from stakeholders, including labor organizations, civil society, survivors, and the private sector.

The Biden Administration is also bringing its worker-centered trade policy and commitment to fair competition to other multilateral fora and to allies bilaterally. USTR chaired the trade session on "Making

Trade Work for All” at the 60th Organization for Economic Cooperation and Development (OECD) Ministerial Council Meeting. USTR is calling upon other regional and multilateral organizations, such as Association of Southeast Asian Nations (ASEAN), Asia-Pacific Economic Cooperation (APEC), and the WTO and its Members to consider how they can more effectively hear from workers and be relevant in addressing the needs of regular people. We are also advancing our worker-centered trade policy with the EU in the U.S.–EU Trade and Technology Council (TTC). Discussions there include analyzing the impact of technology on labor markets, working conditions, and worker rights.

In 2022 and beyond, the United States will continue advocating for workers’ rights on the world stage and collaborating with our partners and allies to improve outcomes for workers across the globe. Trading partners should compete on the merits, not on the basis of exploitation. Through the Biden Administration’s efforts to promote fair competition, we are leveling the playing field for American workers.

## **B. Accelerating Decarbonization and Promoting Sustainable Environmental Practices**

Combating the climate crisis and promoting sustainable environmental practices are top priorities for the Biden Administration. For many years, trade has been seen as exacerbating these challenges. The same dynamic that has created a race to the bottom with respect to labor rights also exists with respect to environmental protection.

However, the Biden Administration understands trade is an indispensable tool in addressing the climate crisis. The traditional approach to climate and environmental issues within trade has primarily focused on advancing levels of environmental protection for our trading partners. The Biden Administration will continue this work and strive to strengthen and expand those commitments, but we also recognize that this singular approach will not achieve our climate goals. To this end, the Administration is pursuing a new generation of trade policies that will more affirmatively promote the decarbonization necessary to limit global temperature increase to 1.5 degrees Celsius.

### **New Agreements and Approaches to Advancing Our Climate Goals and Protecting the Environment**

Last year, the United States and the EU jointly announced their commitment to negotiate the world’s first emissions-based sectoral arrangement on steel and aluminum trade. Together, the United States and EU are working to restrict access to their markets for dirty steel, as well as to countries that dump steel in both markets, contributing to worldwide over-supply. The arrangement will drive investment in green steel and aluminum production in the United States, Europe, and around the world, reducing emissions in two of the most carbon-intensive industrial sectors and ensuring a competitive U.S. steel and aluminum industry for decades to come.

The agreement is proof that trade policy is an important part of our climate agenda, and that effective climate action can—and must—support good-paying, quality jobs. It is also a first in the fight against climate change: never have two global partners aligned their trade policies to confront the joint threats of climate change and global market distortions, ensuring that trade works to solve the challenges of the 21st century.

In 2022, we will encourage like-minded trading partners to work with us to address the emissions intensity of steel and aluminum production and non-market excess capacity in the steel and aluminum sectors. We will continue to use the range of available tools to address trade that degrades the environment, demonstrating that a worker-centered trade policy is a critical part of achieving the United States’ ambitious climate goals.

Through regional engagements, such as the Indo-Pacific Economic Framework, we will pursue opportunities to maintain and improve environmental protection of our trading partners and increase climate ambition, including to decarbonize our respective economies. We will seek to enable and mobilize the technologies, public and private investment, and technical resources needed to scale up clean energy infrastructure and facilitate trade in climate-friendly goods, services, and technologies, while generating high-quality jobs that power economic growth and advance our Paris Agreement commitments.

The United States will also continue working in 2022 to address unsustainable and illegal fishing practices that are destroying the marine ecosystem. As the WTO continues to host negotiations to discipline harmful fisheries subsidies, the United States is committed to working with all WTO members to finally reach a meaningful conclusion to these negotiations to improve the sustainability of our fisheries resources and the lives of fishers. The Biden Administration has engaged intensively with Members to advance these negotiations during this past year and will continue to do so in 2022.

The United States also seeks to protect our oceans and marine resources, and those whose livelihoods depend on them, from the harm caused by plastic pollution. In 2022, the United States will support the launch of multilateral negotiations on an international agreement to combat ocean plastic pollution. The Biden Administration recognizes the key role that trade plays as both a contributor to the problem of ocean plastic pollution, and its potential to serve as an important part of the solution.

Additionally, the United States will continue to support and promote more circular and resource-efficient approaches in other international fora, including the WTO's Committee on Trade and Environment and the Trade and Environmental Sustainability Structured Discussions, and at the OECD. In the APEC forum, we are leading a Recyclable Materials Policy Program under the Committee on Trade and Investment. We will continue to support and expand this work, to help develop the capacity of APEC economies to identify and frame domestic policies that promote solid waste management and recycling infrastructure.

### **Enforcing Environmental Standards Through Existing Agreements and Tools**

We will also take innovative approaches through our existing tools to advance our climate and environment goals. For example, unsustainable deforestation is another critical environmental concern that we seek to address. Illegally-harvested timber has no place in our supply chains: it not only harms the environment and depletes natural resources, but is yet another form of unfair competition, disadvantaging U.S. workers and businesses who use lawful and sustainable means to make their goods.

That's why the Biden Administration is committed to using our trade tools to address this important issue. In October of last year, the United States announced an agreement with the Socialist Republic of Vietnam (Vietnam) that addresses U.S. concerns in the Vietnam Timber Section 301 investigation. This was the first Section 301 investigation to address environmental concerns, and the agreement secures commitments that will help keep illegally harvested or traded timber out of the supply chain and protect the environment and natural resources.

Going forward, the Biden Administration will monitor Vietnam's implementation of this agreement. We will also work to identify other trading partners that engage in practices related to the import and use of illegal timber. As needed, the Biden Administration is prepared to take action to address serious environmental concerns with other trading partners.

The USMCA provides an important example of how trade policy, when done right, is a powerful tool to advance responsible climate action. The Agreement includes the most comprehensive environmental commitments of any U.S. trade agreement, including critical provisions to address wildlife trafficking,

illegal logging and fishing, fisheries subsidies, marine litter, and air and water pollution. The Biden Administration is using the full range of tools at its disposal to confront these issues.

On February 10, 2022, the United States launched consultations with Mexico under the USMCA Environment Chapter regarding Mexico's obligations to effectively enforce its fisheries-related laws, regulations, and other measures designed to prevent illegal, unreported, and unregulated fishing in the Upper Gulf of California, to prevent trafficking of protected species such as the totoaba fish, and to protect and conserve the critically endangered vaquita porpoise.

The United States is also collaborating with key trading partners such as Kenya to forge new partnerships that promote a sustainable trade agenda, while working collaboratively at the WTO, through our trade agreements, and in other regional and multilateral fora to support net-zero economies. Under the U.S.–EU TTC Climate and Clean Tech working group, which USTR co-leads, we will work with the European Union to collaboratively advance trans-Atlantic priorities to address climate change.

### **C. Supporting U.S. Agriculture**

The Biden Administration understands the importance of trade to U.S. farmers, ranchers, fishers, and food manufacturers. From 2000 to 2021, annual U.S. agricultural exports grew from \$58 billion to \$183 billion.

Through our commitment to creating sustainable economic growth and establishing a level playing field, USTR is preserving and building on those gains. The Biden Administration is also focused on creating new opportunities for American agriculture, including using our existing Trade and Investment Framework Agreements (TIFAs) and Free Trade Agreements (FTAs) to support U.S. agriculture exports.

U.S. farmers are integral to the Biden Administration's worker-centered trade policy, and they will see more open trade in 2022 as a result of our early successes and similar ongoing efforts.

- In 2021, the United States concluded negotiations with the United Kingdom (UK) and the European Union on tariff rate quota (TRQ) commitments to account for the withdrawal of the UK from the EU customs union. The outcome provides greater predictability for U.S. exporters, and resulted in favorable outcomes on products such as pork, beef, rice, wheat, corn and grape juice.
- Due to the successful revitalization of the United States–India Trade Policy Forum, the Government of India agreed in December 2021 to allow imports of U.S. pork and pork products into India, removing a longstanding barrier to U.S. agricultural trade. In 2022, USTR will continue to work with India to finalize market access for cherries and alfalfa hay.
- During the August 2021 visit of Vice President Harris to Vietnam, the Government of Vietnam announced reductions in the tariff rates for frozen pork, corn, and all classes of wheat. These reductions will allow U.S. pork, corn and wheat greater access to the Vietnamese market, in line with competitors.
- Following engagements with the Philippines, including a TIFA Agriculture Working Group meeting and subsequent consultations, the Philippines lowered its tariff rates on imported fresh, chilled, and frozen pork and increased quota volumes for imports of such products, and lowered its tariffs on certain chicken and turkey products.
- In July 2021, the United States and Colombia finalized an exchange of letters under the United States–Colombia Trade Promotion Agreement that clarifies requirements on Colombia's

certificates of origin accompanying U.S. corn exports to Colombia. The exchange of letters eliminated bureaucratic requirements for U.S. exporters and secured continued access to the fourth largest U.S. corn export market, valued at approximately \$875 million annually.

- Additionally, USTR and the U.S. Department of Agriculture collaborated closely with U.S. dairy producers to engage with Colombia’s investigating authority in a safeguard investigation into import of U.S. milk powder, valued at approximately \$82 million in 2021. In December 2021, Colombia announced that it concluded its investigation and found that implementation of a safeguard was not justified.

Enforcement also plays a critical role in promoting predictability and leveling the playing field in agricultural trade. The Biden Administration will continue enforcing our existing agreements so U.S. producers can compete in the global market; upgrading and expanding trade frameworks to deliver new opportunities; and promoting sustainable agricultural practices through our trade policy.

For example, in May 2021, the United States requested and established the first dispute settlement panel under the USMCA to review whether Canada violated its dairy commitments under the USMCA. Specifically, we challenged Canada’s dairy TRQ allocation measures that undermine the value of the TRQs by setting aside and reserving access to in-quota quantities exclusively for Canadian processors, thereby denying American dairy farmers the ability to sell their products to Canadian consumers. In December 2021, the United States prevailed in this proceeding, with the panel agreeing that Canada had breached its USMCA commitments.

This historic win demonstrates the Biden Administration’s commitment to ensuring that our trade agreements benefit American workers, including farmers, and it will ensure that the U.S. dairy industry receives the full benefits of the USMCA to market and sell U.S. products to Canadian consumers. In 2022, the Biden Administration will continue using our enforcement tools to ensure that our trading partners deliver on their commitments and that U.S. agricultural producers receive the benefits negotiated in existing FTAs.

We will continue leveling the playing field for U.S. farmers by monitoring the treatment of U.S. agriculture biotechnology products and advocating for fair and science-based treatment of these products by our trading partners. USTR will also monitor the practices of other trading partners to ensure that U.S. agricultural products are not subject to unfair, unjustified, or discriminatory restrictions.

## **D. Bolstering Supply Chain Resiliency**

Bolstering supply chain resiliency is a critical component of the Biden Administration’s efforts to advance our worker-centered trade policy and create sustainable economic growth.

Supply chains are integral to the global trading system, and the COVID-19 pandemic and the associated global economic disruption have highlighted major vulnerabilities in our existing supply chains, as well as underscored the importance of promoting supply chain resiliency.

To begin addressing these challenges, President Biden signed Executive Order 14017 (*America’s Supply Chains*) last year, directing a whole-of-government approach to assess vulnerabilities in, and strengthen the resilience of, critical U.S. supply chains. Pursuant to the Executive Order, the Biden Administration conducted a 100-day review for four priority product areas: semiconductors, large capacity batteries, critical minerals and materials, and pharmaceuticals and active pharmaceutical ingredients.

Following the recommendations that emerged from the 100-day reports, the Biden Administration established an interagency Supply Chain Trade Task Force led by USTR. This task force is directed to identify both unfair foreign trade practices that have eroded U.S. critical supply chains and opportunities to use U.S. trade agreements and future trade agreements to strengthen the collective supply chain resilience of the United States and our trade partners.

Over the next year, the Biden Administration will continue its work to strengthen supply chains to promote economic security, national security, good-paying jobs, and the health of small- and medium-sized businesses, with strong standards for environmental sustainability and community engagement. Steps to address identified supply chain vulnerabilities and develop the foundation for increased resilience will be an important component of the United States' ongoing engagement with its trade partners.

## **E. Combatting the COVID-19 Pandemic**

Consistent with our trade policy agenda that recognizes that people are the core of our economy, USTR is working closely with a number of agencies to ensure that trade rules support, and do not impede, the global response to the COVID-19 pandemic. The Biden Administration is taking a whole-of-government approach to address the pandemic, at home and abroad. These efforts include COVID-19 vaccine donations through COVAX and other fora, investment in vaccine production and delivery infrastructure in underserved regions, and working with trading partners to identify obstacles and solutions to vaccination efforts – including through supporting a waiver of intellectual property protections for COVID-19 vaccines at the WTO, as well as measures to facilitate the flow of goods necessary to fight the pandemic.

## **III. RE-ALIGNING THE U.S.–CHINA TRADE RELATIONSHIP**

The U.S.–China economic and trade relationship is one of profound consequence. As the two largest economies in the world, the bilateral relationship affects not just the two participants, but the entire globe.

The Biden Administration acknowledges that this relationship is complex and competitive. With respect to trade, competition must be fair. China's approach to trade drives frictions in many of China's trade relationships – not just ours. China, as a large, non-market economy, is uniquely able to distort the marketplace through unfair, anticompetitive practices, which harm workers and businesses in the United States and in other countries, including some of our closest allies and partners. By unduly concentrating production of certain goods in China, these non-market policies and practices also undermine supply chain resilience and harm consumers that, in the long run, are deprived of the innovation and choice that fair competition would produce.

To successfully counter the range of threats posed by China, we must be frank about the challenges we face.

China employs a wide array of unfair, distortive measures that provide substantial support to Chinese industries across the economy, often in pursuit of specific aims in terms of production, capabilities, and market share. China has also limited market access for imported goods and services and restricted the ability of foreign manufacturers and services suppliers to do business in China. Further, it has used various, often illicit, means to secure foreign intellectual property and technology to pursue its industrial policy objectives.

China fails to provide its people with the most basic of labor rights, including the right to organize and bargain collectively. Low operating costs resulting from artificially low wages and poor worker protections remain some of the key reasons why companies have chosen to offshore production there. Moreover, the

use of state-sponsored forced labor, including in the Xinjiang Uyghur Autonomous Region, is an affront to human dignity and a further example of China's unfair economic practices. Similarly, China's environmental policies make it a manufacturing destination of choice for production processes that would be barred in other countries.

China's unfair, non-market practices are also reflected in its approach to the environment, including: its weak environmental regulation and enforcement; subsidies that contribute to overfishing; illegal fishing practices; decimation of the infrastructure for recyclable commodities through a vast web of import bans; and overproduction of industrial goods. Beyond anticompetitive behavior, China's policies are otherwise harmful to the environment. Of note is China's tolerance of imports of illegally harvested wildlife products, which enables a major source of demand.

The Biden Administration is taking a new, holistic, and pragmatic approach to our relationship grounded in the principles of our worker-centered trade policy. We are clear-eyed about China's doubling down on its harmful trade and economic abuses. We are also mindful that rash response measures can create vulnerabilities of their own. The Biden Administration's approach to China is and will continue to be deliberative, with a focus on the long term.

It starts with the groundbreaking domestic investments enacted through the President's Build Back Better agenda, which allow the United States to engage and compete with China from a position of strength. In addition, we are taking steps to build supply chain resilience that will protect American workers and consumers from the harms wrought by China's trade and economic abuses. We are also considering all existing tools—and will potentially seek new ones as needed—to combat the harms of China's state-led, non-market practices.

Critically, we are bringing renewed focus to engagement with our partners and allies, who also suffer harm from China's unfair trade and economic practices. We share values and an essential interest in fair, market-based competition. The ability to defend against unfair Chinese practices requires that market economies act in concert to confront policies and practices that are fundamentally at odds with a global trading system based on market competition.

Moreover, the use of forced labor in supply chains is not simply an extreme form of unfair competition, but a moral stain. Consistent with the statutory ban on the importation of goods made in whole or in part with forced labor, the Administration issued an updated Xinjiang Supply Chain business advisory in 2021. Going forward, the Biden Administration will continue holding China accountable for its use of state-sponsored forced labor and working with our trading partners to eradicate the use of forced labor throughout global supply chains. This includes continued implementation and enforcement of the Uyghur Forced Labor Prevention Act.

As we take these steps, we are mindful of the effects that trade actions can have on American businesses and workers. USTR has restarted a targeted tariff exclusions process to ensure that our economic interests are being served, and we will keep open the option of further tariff exclusions processes as warranted.

The Biden Administration understands that durable coexistence requires engagement as well as accountability. We are steadfastly working through the challenges ahead to deliver meaningful results for the American people. Above all else, we will use the full range of tools in our economic toolbox—and develop new tools where necessary—to steadfastly defend our interests and those of other market economies that seek fair competition.

## **IV. ENGAGING WITH KEY TRADING PARTNERS AND MULTILATERAL INSTITUTIONS**

Growing the middle class, redressing inequality, and incentivizing climate and environmental action are goals we share with many of our trading partners. Working with others to craft trade policies that promote these goals reflects the American leadership that many of our trading partners are seeking. The Biden Administration is meeting the challenge.

Using trade policy as a tool to achieve these shared goals, USTR is stepping up its engagement with partners, allies, multilateral institutions and organizations. These actors and institutions play a pivotal role in cultivating any meaningful outcomes to address shared concerns. But to achieve a more resilient and just global economy, reform is necessary. The policies of the past contributed to contemporary challenges; we need different policies to achieve a different outcome.

Recognizing these shared goals, and the importance of working with others to achieve them, the Biden Administration is repairing strained relationships with partners and allies and recommitting the United States to the world's international institutions. We are applying the principles of our worker-centered trade policy to resolve long-standing disputes, and to creating new partnerships and frameworks fit for jointly tackling our greatest shared challenges. We are also recommitting to and revitalizing our international institutions to ensure that they effectively address the needs of everyday people.

President Biden's strategy has already borne fruit, leading to mutually beneficial outcomes that advance the goals of shared prosperity and open the door to still greater cooperation.

### **A. Indo-Pacific Economic Framework**

The Biden Administration is committed to engaging economically with partners in the Indo-Pacific region. In the coming decades, we believe that competitiveness will largely be defined by how well countries are able to harness technology and digital sectors of our economies and the coming energy and climate transition to promote inclusive growth – and working with our partners and allies in the Indo-Pacific will be critical to achieving these goals. The Indo-Pacific is one of the most dynamic regions in the world, and it is one of strategic importance to the United States. Additionally, the region is home to some of our closest allies and trading partners, including some with which we have longstanding trade agreements. By working closely with allies and partners to bolster our economic engagement in the Indo-Pacific, we can establish a new path forward that supports the global competitiveness of American workers and businesses and further the shared interests of our allies in the years to come.

That is why President Biden announced in October 2021 that the United States is developing an Indo-Pacific Economic Framework to deepen economic relationships with allies and partners in the region. This framework will promote inclusive growth for workers and businesses, advance strong labor standards, and tackle climate change. The framework is also central to the Biden Administration's economic strategy in the Indo-Pacific and complements our national security goals in the region.

We will use this framework to address a range of important areas of economic cooperation, including: fair and resilient trade (including labor, digital and other elements); supply chain resilience; infrastructure, decarbonization, and clean energy; and, tax and anti-corruption. USTR will lead efforts to craft a trade arrangement with parties that includes provisions on: high-standard labor commitments; environmental sustainability; cooperation in the digital economy; sustainable food systems and science-based agricultural regulation; transparency and good regulatory practices; competition policy; and, trade facilitation. The

specific content of the trade arrangement will be developed through extensive consultation with trading partners, a broad base of stakeholders, and Congress.

## **B. World Trade Organization**

The Biden Administration is committed to the WTO. Consistent with our approach to trade policy more broadly, the Biden Administration believes the WTO can—and should—be a force for good that encourages a race to the top and confronts global challenges as they arise. There is strong precedent for this approach: the Marrakesh Declaration and Agreement, on which the WTO is founded, begins with the recognition that the purpose of trade should be to raise living standards and ensure full employment, bearing in mind the objective of sustainable development, and the need to protect and preserve the environment.

Unfortunately, the WTO has fallen short with respect to these ambitions, and its relevance and credibility have accordingly come under fire. In recent years, the WTO's inadequacy in responding to the needs of everyday people and the inability of current rules to effectively constrain unfair trade and economic practices have only become clearer. The pandemic has put a fine point on the WTO's struggle to adapt as an organization and to be relevant in responding to pressing global challenges.

That is why the Biden Administration supports a WTO reform agenda that reflects the priorities of our worker-centered approach – one that protects our planet, improves labor standards, and contributes to shared prosperity. Our WTO reform agenda includes restoring efficacy to the negotiating arm and promoting transparency; improving compliance with and enforcement of Members' WTO commitments; and equipping the Organization to effectively address the unfair practices of non-market economies—such as economic coercion—and global market distortions.

The Biden Administration understands that these reform conversations will take time, and we are working to deliver results on achievable outcomes through the WTO's existing structure. Throughout 2021, WTO Members undertook work to orient Members' efforts towards a pandemic response and greater preparedness, and sought to identify priority steps that could be taken including in the area of trade facilitation and intellectual property protections. While some progress has been made, there is still no multilaterally agreed outcome. The Biden Administration supports a waiver of intellectual property protections for COVID-19 vaccines, but the broader institution has not been able to reach consensus on an agreement to do so. We will continue to press for solutions on this issue in 2022.

Additionally, the postponement of last year's 12th Ministerial Conference (MC12) was a disappointment, but safety and security in the midst of a pandemic appropriately take priority. However, the work can, and must, continue and MC12 is being rescheduled for late Spring 2022. The Biden Administration worked diligently throughout 2021 to secure meaningful outcomes for the planned Ministerial across a range of topics including broad reform of the WTO. We will continue engaging with partners to make progress on these issues in 2022.

## **C. Organization for Economic Cooperation and Development**

As noted above, the Organization for Economic Cooperation and Development (OECD) has also recognized that trade must work for all, and it is another venue that provides the Administration with an opportunity to advance our worker-centered trade agenda.

In addition, recognizing this opportunity and following our commitment to defend U.S. economic interests, the Biden Administration has focused on the resolution of long-standing U.S. concerns about discriminatory digital services taxes and the negotiation of a historic political agreement to end the race to the bottom in

global income tax competition. As part of the 2021 historic OECD framework on global taxation, U.S. trading partners around the globe have agreed to roll back existing digital services taxes (DSTs) and other similar measures as the global tax reform is implemented, and not to adopt any new DSTs, which target and discriminate against American companies and their workers. Over the course of 2021, the Biden Administration reached agreements with India, Turkey, Austria, France, Italy, Spain, and the UK suspending the application of DSTs during the interim period prior to full implementation of Pillar 1 of the OECD framework. USTR will continue to monitor the implementation of these agreements by our trading partners and is prepared to examine all options, including under our trade agreements and domestic statutes, if other countries move forward with new DSTs during the implementation period.

## **D. Bilateral Initiatives**

President Biden has used trade policy as a tool to rebuild relationships with trading partners to advance a worker-centered trade policy. Some of these engagements were held under the auspices of existing trade agreements, including free trade agreements (FTAs) and trade and investment framework agreements (TIFAs), while others led to the formation of new partnerships.

### **1. European Union**

The United States and the EU share an economic relationship of critical importance, as well as the goals of growing the middle class, redressing inequality, and incentivizing responsible environmental stewardship. The Biden Administration believes that a strong U.S.–EU partnership is key to advancing a worker-centered trade policy around the globe.

The Biden Administration is focused on using trade policy as a tool to reduce irritants where possible, resolving conflicts in a manner that advances a worker-centered, sustainable trade policy. For example, the U.S. and EU have been engaged since 2004 in a dispute over government subsidies to producers in the large civil aircraft sector. After 17 years of bitter, resource-intensive litigation, the Biden Administration negotiated June 2021 agreements with the EU and UK to suspend tariffs for five years. Removing this longstanding irritant, allows the United States, EU, and UK to continue to focus on promoting global trade based on fair competition.

Additionally, the United States and the EU launched the TTC last year to promote U.S. and EU competitiveness and prosperity and the spread of democratic, market-oriented values by improving transatlantic trade and investment in products and services of emerging technology, strengthening our technological and industrial leadership, boosting innovation, and protecting and promoting critical and emerging technologies and infrastructure. We stand together in continuing to protect our businesses, consumers, and workers from unfair trade practices, in particular those posed by non-market economies that are undermining the world trading system.

In September 2021, the Biden Administration was pleased to host the inaugural TTC ministerial meeting in Pittsburgh, Pennsylvania, where the United States and the EU agreed to collaborate on a number of concrete areas of work in the Global Trade Challenges working group led by USTR. The areas of focus include responding to the challenges posed by non-market economy policies and practices, avoiding unnecessary barriers to trade in emerging technology products and services, promoting and protecting labor rights and decent work, combatting child and forced labor, expanding resilient and sustainable global supply chains, and trade and environment.

The TTC is a key component of our cooperative work with the EU to address our common challenges with respect to non-market policies and practices, including combatting economic coercion, in line with our

shared values. Going forward, the Biden Administration will also seek to use the TTC to cooperate on the development and deployment of new technologies that are based on our shared democratic values, including respect for human rights, and that encourage compatible standards and regulations as appropriate, while respecting the sovereign right to regulate.

## **2. India**

The United States and India share a dynamic and important trade and investment relationship. In 2021, the United States and India relaunched the United States–India Trade Policy Forum (TPF), which had not met since 2017. In 2022, USTR will look to the TPF to tackle issues that include the relationship between trade, labor, and the environment. The United States and India will also collaborate on building resilient supply chains and promoting a transparent, rules-based trading system for market economies and democracies.

## **3. Japan**

Japan has long been a valued trading partner of the United States, as well as a close ally. In 2022, we announced with Japan a new Section 232 tariff agreement to allow historically-based sustainable volumes of Japanese steel products to enter the U.S. market without the application of Section 232 tariffs. This deal will help ensure the long-term viability of our steel industry and defend American jobs. It is also part of our efforts to provide relief for American manufacturers who rely on readily accessible, affordable steel to make their products and to lower prices for American families.

Additionally, we announced in 2021 the launch of the U.S.–Japan Partnership on Trade. This initiative reaffirms the shared commitment to strengthen the U.S.–Japan alliance through regular engagement to advance an agenda of cooperation as well as to address bilateral trade issues of concern to either side. The initial areas of focus for cooperation include issues such as third country concerns, cooperation in regional and multilateral trade-related fora, addressing labor and environment-related priorities, a supportive digital ecosystem for all, and trade facilitation, among others.

The first series of meetings under this partnership are scheduled for early 2022, with periodic meetings to be held on a regular basis thereafter to advance our shared agenda. USTR will use this partnership to deepen our cooperation and advance sustainable, resilient, inclusive, and competitive trade policies that lift up our people and economies.

## **4. Kenya**

The United States is committed to continue working with Kenya to deepen our trade and investment relationship, including by advancing worker-centered trade policies and promoting regional and continental economic integration in Africa. The Biden Administration will hold further conversations with the Kenyan Government to establish a shared vision and partnership for economic resilience and to promote investment, equitable and inclusive development, sustainable trade, and African Continental Free Trade Area (AfCFTA) implementation. The Biden Administration also views this approach as one to be built upon to include other areas of mutual interest and to serve as a model for engagement with other willing countries on the continent.

## **5. African Continental Free Trade Area**

The United States will continue to engage with the AfCFTA Secretariat and others throughout Africa to support regional economic integration, attract investment in supply chains within the continent, and improve the livelihoods of African workers, including and especially women and youth.

## **6. United Kingdom**

In 2022, the United States and the United Kingdom will continue to deepen our trade relationship and work to promote trade based on fair competition, address forced labor in supply chains, and address the challenges posed by distortive policies of non-market economies. USTR will hold several events in the United States and the United Kingdom to hear directly from our respective stakeholders on the way forward for U.S.–UK trade ties. We will engage in robust discussions and outline considerations for advancing our trading relationship to support our worker-centered trade policy.

## **7. Korea**

Korea is a valued trading partner and a close ally. The United States–Korea Free Trade Agreement (KORUS) continues to be both a reflection of that close relationship and the foundation upon which we can build to make it even more cooperative. Following our convening of the KORUS Joint Committee last year, the United States and Korea agreed to hold meetings of the KORUS Labor Affairs Council and Environmental Affairs Council in 2022. Going forward, we are committed to working with Korea to address our shared concerns, such as supply chain challenges, sustainable trade, emerging technologies, the digital economy, and trade facilitation.

## **8. Taiwan**

The United States has a long-standing and vibrant trade relationship with Taiwan, a democratic ally and important trading partner in the region. Last year, the United States and Taiwan convened the 11th TIFA Council, under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO). Going forward, the United States and Taiwan have agreed to work to combat exploitative labor in global supply chains and to form a Labor Working Group under the TIFA. The United States will also work with Taiwan to address outstanding trade concerns, including market access barriers facing U.S. beef and pork producers, and concerns involving copyright legislation, digital piracy, financial services, investment, and regulatory transparency.

## **9. Singapore**

Singapore has long been a critical partner and was the first Asian partner to sign a free trade agreement with the United States. In 2021, the two countries convened a United States–Singapore Free Trade Agreement Joint Committee Meeting. Singapore and the United States agreed to press forward with work on the environment, labor, digital trade, supply chains, and intellectual property, among other issues. The United States will continue working closely with Singapore on these matters in 2022.

# **V. PROMOTING CONFIDENCE IN TRADE POLICY THROUGH ENFORCEMENT**

The Biden Administration is committed to vigorously enforcing our trade agreements as a critical element of pushing a global race to the top. Enforcement is a key component of our worker-centered trade policy agenda. We are using all of the tools at our disposal to combat unfair economic practices, defend American jobs, and create broad-based economic prosperity. American workers and businesses can compete with anyone when the playing field is level and competition is fair, and trade policy is an indispensable tool in achieving those goals. We are shaping a global trading system that enforces labor and environmental standards, protects intellectual property rights, and ensures that regulations are science-based and

predictable.

As discussed above, the Biden Administration has already taken unprecedented action to utilize trade policy as a tool to defend U.S. economic interests. Under the USCMA, we have twice employed the RRM to protect workers' rights, in addition to establishing—and ultimately prevailing in—the first dispute settlement panel under the USMCA. The United States has also repeatedly engaged with Canada and Mexico on a number of issues, including to ensure that U.S. agricultural products receive fair treatment, that the regulatory environment is fair and transparent, and that U.S. goods receive fair treatment.

Continuing to vigorously enforce the USMCA's standards will continue to be a top priority for the Biden Administration in 2022. We are currently engaged in consultations with Mexico under the USMCA's Environment Chapter regarding whether Mexico is meeting its obligations to effectively enforce fisheries-related measures, and we will continue to use all available enforcement mechanisms to robustly uphold all of the Agreement's groundbreaking standards.

We are also thoroughly deploying domestic enforcement tools to protect our economic interests. Last year, the independent U.S. International Trade Commission found that SK Innovation misappropriated the trade secrets of LG Chem with respect to lithium ion batteries for electric vehicles. During the Presidential review period, SK and LG reached a settlement. This proceeding, and the ensuing settlement, provide an important example of a circumstance in which enforcing intellectual property rights also supports U.S. jobs and fair competition.

Similarly, USTR's [2021 Notorious Markets List](#), released on February 17, is worker-centered in its focus. The Notorious Markets List identifies examples of online and physical markets that reportedly engage in or facilitate substantial copyright piracy or trademark counterfeiting. Consistent with the Administration's worker-centered trade policy, the 2021 Notorious Markets List examines widespread labor abuses and the adverse impact of counterfeiting on workers involved with the manufacture of counterfeit goods.

In addition, the Administration will continue to administer its preference programs in line with our worker-centered agenda and in accordance to the statutory, eligibility criteria. After using all diplomatic means available to induce the governments to remediate the issues, President Biden announced in November 2021 the termination of Ethiopia's, Guinea's, and Mali's eligibility for the African Growth and Opportunity Act (AGOA) trade preference program. The United States remains committed to and continues to work with all three countries to meet the clear statutory benchmarks toward reinstatement in the AGOA program.

The United States also opposes acts, policies and practices by foreign countries that are intended to undervalue their currencies in order to gain an unfair competitive advantage over American businesses and workers. Under the Biden Administration, the U.S. government has deployed the full range of available tools to put effective pressure on countries that have been judged to intervene excessively in the foreign exchange market. The Biden Administration is committed to examining the currency practices of all major U.S. trading partners and holding them to account as necessary.

In 2021, following USTR's determination that Vietnam's currency acts, policies, and practices—including excessive and one-sided intervention in the foreign exchange markets—were unreasonable and constituted a burden on U.S. commerce, as well as the Treasury Department's determination that Vietnam met the criteria for "enhanced engagement" under the 2015 Trade Facilitation and Trade Enforcement Act, the United States entered into an intensive dialogue with the State Bank of Vietnam. In July 2021, based on an agreement reached between the Department of the Treasury and the State Bank of Vietnam regarding Vietnam's currency practices, USTR determined that no action under Section 301 in the currency investigation was warranted at that time because Vietnam's agreement with Treasury provided a satisfactory resolution of the matter subject to the investigation. USTR, in coordination with Treasury, will

monitor Vietnam’s implementation of its commitments under the agreement and associated measures going forward.

The Biden Administration will continue to monitor the practices of our trading partners and hold them accountable for meeting the standards established under our trade agreements. But President Biden understands that it is not enough to simply enforce the rules of our existing agreements. To achieve meaningful results that level the playing field for U.S. workers, we must be able to combat anticompetitive behavior in other contexts too.

Our current trade tools were crafted decades ago and in some respects are not adequate to address the challenges we are confronting in the modern economy. That’s why the Biden Administration supports reviewing our existing trade tools, identifying ways to strengthen them, and creating new tools as necessary. In 2022, we will work with Congress to fully evaluate the efficacy of our current trade tools and identify areas where new tools may be needed.

## **VI. PROMOTING EQUITABLE, INCLUSIVE, AND DURABLE TRADE POLICY AND EXPANDING STAKEHOLDER ENGAGEMENT**

Trade policy can play a critical role in advancing equitable and resilient economic growth for underserved and marginalized communities, here in the United States and with trading partners who share concerns about rising inequality. The Biden Administration is committed to thorough and thoughtful engagement as we develop and implement the President’s trade policy agenda. Inclusive engagement is a key component to ensuring that our resulting trade policies are durable and equitable, and account for previous common policy shortfalls of failing to engage with communities that will be affected by those decisions. As such, the Biden Administration will continue to give all stakeholders a seat at the table as we evaluate and make these decisions.

### **A. Promoting Equitable, Inclusive, and Durable Trade Policy**

In strengthening the nation’s competitiveness and expanding the benefits of trade, racial and gender equity must be core elements of U.S. trade and investment policy. An intersectional, interconnected framework is particularly important in emerging sectors where the United States has the potential to be competitive and create well-paying U.S.-based jobs through trade. For these reasons, many of President Biden’s first actions directed the whole of government to embed equity in their policy goals, objectives, and outcomes.

As a result, the 2021 Annual Trade Report includes unprecedented inaugural updates on USTR initiatives to advance racial and gender equity in U.S. trade policy. In addition, all U.S. trade policy tools, engagements, and initiatives will consider and reflect the core principles outlined in the Executive Orders on *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* and *Worker Organizing and Empowerment*, the United States’ historic, first *National Strategy on Gender Equity and Equality*, and the Presidential Memoranda on *Tribal Consultation and Strengthening the Nation-to-Nation Relationship* and on *Advancing the Human Rights of LGBTQI+ Persons around the World*. In addition, USTR will continue to play a constructive, active role as the co-chair of the White House Initiative on Asian American Native Hawaiian and Pacific Islanders (WHIAANHPI), and as a member of the Gender Policy Council and White House Council on Native American Affairs (WHCNA).

Data continues to be critical to informing work with like-minded partners to advance inclusive growth and trade policy. Last year, USTR requested that the U.S. International Trade Commission (ITC) conduct an

independent, two-part investigation of the distributional effects of goods and services trade and trade policy on U.S. workers by skill, wage and salary level, gender, race/ethnicity, age, and income level, especially as they affect underrepresented and underserved communities. USTR will review and use the ITC's comprehensive public report expected in 2022 to advance inclusive growth, economic resilience and competitiveness, and data needs. In addition, USTR's future requests for probable economic effects advice will include estimates of the potential distributional effects of trade and trade policy, including goods and services imports and exports, on U.S. workers.

## **B. Engagement and Consultation with Partners and Stakeholders**

The Biden Administration recognizes Congress' important role in crafting U.S. trade and investment policy. We welcome and seek guidance and feedback from Members of Congress to share their views and constituents' priorities regarding trade policy. USTR leadership and staff have visited Members and their constituents in different regions of the country to listen to and learn about their trade experiences firsthand. In 2022, the Biden Administration will continue to actively engage with Congress and work with Members to address their trade policy priorities.

Additionally, the Biden Administration is committed to engaging with a wide range of diverse and underserved communities as we develop and implement our trade policy agenda. USTR will continue connecting with stakeholders with diverse perspectives and experiences throughout the country to listen, learn, and build trusted relationships and lines of communication to develop inclusive policy that delivers equitable results.

The Biden Administration has also regularly consulted and briefed the 28 advisory committees that USTR manages and co-leads as we seek to hear input from labor unions, environmental groups, consumer groups, nongovernmental organizations, State and local Governments, industry, and academia. In addition to seeking cleared advisor feedback on how to improve the administration of advisory committees, USTR will continue to invite and challenge cleared advisors to consider and advise on advancing innovative, equitable trade and investment policy, and encourage diverse and inclusive perspectives to apply to serve on trade advisory committees.

**THE 2021 ANNUAL REPORT OF THE  
PRESIDENT ON THE TRADE AGREEMENTS  
PROGRAM**

# I. AGREEMENTS AND NEGOTIATIONS

## A. Free Trade Agreements in Force

### 1. Australia

The United States–Australia Free Trade Agreement (FTA) entered into force on January 1, 2005.

#### *Operation of the United States–Australia Free Trade Agreements*

The United States–Australia Joint Committee is the central oversight body for the FTA. The United States met regularly with Australia throughout 2021 to monitor implementation of the FTA and review concerns about market access. The United States continued to work closely with Australia to deepen the bilateral trade relationship and coordinate on issues of regional and international importance.

#### *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

### 2. Bahrain

The United States–Bahrain Free Trade Agreement (FTA) entered into force on August 1, 2006. Under the FTA, as of August 1, 2006, Bahrain provides duty-free access to 100 percent of the two-way trade in industrial and consumer products, and trade in most agricultural products. 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. Under the 2018 United States–Bahrain Memorandum of Understanding on Trade in Food and Agriculture Products, Bahrain continues to accept existing U.S. export certifications for food and agricultural products.

The United States–Bahrain Bilateral Investment Treaty, which took effect in May 2001, covers investment issues between the two countries.

#### *Operation of the United States–Bahrain Free Trade Agreement*

The United States–Bahrain Joint Committee (JC) is the central oversight body for the FTA. 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 region; and, (4) additional cooperative efforts related to labor rights and environmental protection.

#### *Labor*

During 2021, the Office of the U.S. Trade Representative (USTR) and the U.S. Department of Labor continued to monitor and engage with the Government of Bahrain on labor rights in Bahrain, in particular

with respect to employment discrimination and freedom of association related concerns that had been highlighted initially during consultations that began in 2013 under the United States–Bahrain FTA.

*For further discussion on labor-related activities, see Chapter III.H.1 Trade and Labor Free Trade Agreements and Bilateral Activities.*

### **3. Central America and the Dominican Republic**

On August 5, 2004, the United States signed the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA–DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. 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.

The CAFTA–DR eliminates tariffs, reduces barriers to services, and promotes transparency, prosperity, inclusive economic opportunities and stability throughout the region. U.S. export and investment opportunities with Central America and the Dominican Republic have continued to grow under the CAFTA–DR. All of the CAFTA–DR Parties 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, tariff-rate quotas (TRQs) for sensitive agricultural products will increase annually through 2025, after which the TRQs will be eliminated and the affected products will enter other CAFTA–DR countries duty free.

#### *Operation of the Dominican Republic–Central America–United States Free Trade Agreement*

The CAFTA–DR Free Trade Commission (FTC) is the central oversight body for the CAFTA–DR. The FTC is responsible for monitoring the implementation and administration of the Agreement, including strengthening implementation, enhancing opportunities for small and medium-sized enterprises (SMEs), and addressing trade related aspects of labor and environment. 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.

#### *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

#### *Environment*

*For a discussion on environment-related activities, see Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities.*

#### *Labor*

Ongoing CAFTA-DR 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. In 2021, the U.S. Department of Labor (DOL) continued to fund technical assistance projects under the CAFTA–DR Labor Cooperation and Capacity Building Mechanism, the U.S. Agency for International Development (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 to fund a program to combat labor violence in Guatemala and Honduras.

### Dominican Republic

During 2021, 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 responded 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. The Dominican Republic Ministry of Labor continued its direct outreach on labor rights to sugarcane cutters at all three major Dominican sugar companies. Additionally, the Ministries of Foreign Affairs and Labor discussed more formal collaboration to help build Creole language capacity in the labor inspectorate. Although progress has been made, procedural and methodological shortcomings in the labor inspections process still remain. Through a DOL-funded \$5 million technical assistance project designed to improve working conditions and address child labor in the Dominican agriculture sector, the Ministry of Labor initiated the development of an electronic case management system, revised its agricultural inspection guidelines, and trained inspectors on core international labor standards, all of which could help systematize inspections, in line with the DOL report recommendations. The Office of the U.S. Trade Representative (USTR), the DOL, and the Department of State coordinated U.S. Embassy visits to sugarcane producing worksites and worker communities to talk to workers and civil society representatives and reiterated to the Ministries of Labor and Foreign Affairs, at both high and technical levels, the need for accelerated progress to address the continuing labor challenges in the sector.

### Honduras

In 2015, a [DOL report](#) issued 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 five years, including convening numerous 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 2021, the U.S. Government conducted three missions to Honduras to follow up on the MAP, and the Government of Honduras convened tripartite meetings in August, September, and November to consult with stakeholders regarding progress on the MAP. The timelines in the MAP remained suspended, given the ongoing COVID-19 state of emergency in Honduras. Nonetheless, the U.S. Government continued to encourage Honduras to take the required actions to improve Honduras’ capacity for collecting fines assessed under the new inspection law and to resolve freedom of association cases in the melon and automotive parts industries before the MAP concludes.

The U.S. Government continued to provide 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. The DOL continued funding an \$11.6 million project to reduce child labor and improve labor rights in support of the Government of Honduras’ implementation of MAP commitments, a \$2 million project to improve the technical audit unit within the Ministry of Labor and to improve

Honduras' technical capacity to collect fines, as well as a \$2 million project with the International Labor Organization to combat child labor in the coffee sector.

#### Additional CAFTA-DR Labor-Related Technical Capacity Building

In support of the 2017 labor law reform in Costa Rica, the DOL continued to fund a \$2 million technical assistance project to build the capacity of key Costa Rican agencies responsible for enforcing labor laws, particularly the labor 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 agricultural sector through new mechanisms to file complaints before national administrative and labor courts. The DOL also continued to fund a technical assistance project in Costa Rica that supports vulnerable and marginalized youth in acquiring the skills to enter the job market, helps companies develop apprenticeship or workplace-based training programs for vulnerable youth, and supports efforts to strengthen the laws and policies for these programs.

In addition, the DOL continued to fund labor capacity-building projects implemented by IMPAQ International, a research institute headquartered in Washington, D.C. These projects included a \$4 million project on labor market information systems in El Salvador, Guatemala, and Honduras, and a \$17 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.

In late 2021, the DOL awarded three new regional technical assistance projects in Guatemala, El Salvador, and Honduras totaling \$21.4 million. The projects will focus on workers' rights, workplace safety and health and other unacceptable conditions of work, child labor, and forced labor.

*For further discussion on labor-related activities, see Chapter III.H.1 Trade and Labor Free Trade Agreements and Bilateral Activities.*

#### **Other Implementation Matters**

During 2021, the United States developed a broad strategy with Central America to address the root causes of migration, including strengthening inclusive economic prosperity, labor rights and protections, democratic governance, and rule of law. Through CAFTA–DR engagement mechanisms, USTR focused on facilitating trade, improving transparency, and advancing worker-centered trade policy to build inclusive economic opportunities and formal sector employment in the region. During a September 2021 meeting of the CAFTA–DR Coordinators Committee, the Committee on Trade Capacity Building (TCB Committee), and other technical committees, countries discussed policy cooperation and trade capacity building activities related to simplifying and harmonizing the procedures of Central American customs and other border agencies, such as by aligning sanitary and phytosanitary (SPS)-related regulatory requirements, to improving efficiencies, and expanding bilateral and intra-regional trade and investment opportunities. They also discussed other regulatory practices to prioritize for improvement; strengthening trade, investment, and the regional supply chain in the textiles and apparel sector; strengthening worker rights and labor protections to foster inclusive economic, trade, and investment opportunities; and, strengthening environmental protections to foster sustainable economic development and investment opportunities.

The CAFTA–DR Parties engaged on the 2022 updates to the Harmonized Tariff Schedule, to satisfy administrative requirements and facilitate customs' processing for member countries. They also reviewed trade data exchanged under the Agricultural Review Commission (ARC), in accordance with Article 3.18 of the CAFTA–DR (*For further information, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities*).

The United States also continued to work closely with CAFTA–DR Parties on bilateral and regional matters related to implementation of the Agreement, including agricultural and SPS trade matters. The U.S. Government worked to improve the transparency and effectiveness of Central American regulatory and customs/border practices, which has resulted in facilitating customs procedures and trade as well as Guatemala’s publication in January 2021 of a single Customs schedule, resolving a longstanding tariff classification challenge and removing an obstacle to U.S. preferential access in Guatemala.

The U.S. Government also worked with several of the CAFTA-DR countries to ensure implementation of the Agreement’s provisions on intellectual property (IP), including those related to notice and takedown and safe harbor for Internet service providers, government tracking of software licenses, geographical indications, and IP enforcement, achieving comprehensive progress in Costa Rica.

Through the FTC, the CAFTA–DR Parties have 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 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 continues to support advances in this area through various trade capacity building efforts to promote economic prosperity. These initiatives included efforts to support the U.S. textile and apparel industry by strengthening utilization of the Agreement and regional supply chains.

### **Trade Capacity Building**

During 2021, USTR coordinated with USAID, other U.S. Government trade-related agencies, and CAFTA–DR partner countries to identify and explore possible trade capacity building activities and to work with government agencies and international donors to prioritize and coordinate technical assistance through the TCB Committee. The TCB Committee met in September 2021 to discuss trade capacity building activities and priorities for technical assistance.

Trade capacity building programs and planning continued throughout 2021. USTR, along with USAID and other U.S. Government trade and donor agencies, such as the U.S. Departments of Agriculture (USDA), Commerce, Labor, and State, carried out bilateral and regional projects with CAFTA–DR partner countries to facilitate trade and inclusive economic opportunity, strengthen labor rights and protections, and increase capacity within the CAFTA–DR countries.

During 2021, specific programs included:

- Central America Customs, Border Management, and Supply Chain trade facilitation program, 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 compliance with the commitments outlined in both the CAFTA–DR and the WTO Trade Facilitation Agreement (TFA).
- Building El Salvador’s Trade and Competitiveness in Textiles and Apparel to Strengthen Trade and Regional Economic Prosperity program. This program engaged business, academia, and government to strengthen human and institutional capacity to support the Salvadoran and regional textile and apparel industry and enhance competitiveness and supply-chain opportunities throughout the CAFTA–DR region. In 2021, several workshops and professional exchanges were held via digital conferencing platforms on issues affecting the textile and apparel industry’s competitiveness in the context of the global supply chain, utilization of the CAFTA–DR, and the U.S. regional supply chain.

- Central America Regional Trade Facilitation and Border Management project, which aims to enhance economic growth in Central America by strengthening the region’s trade capacity and competitiveness through increased regional integration and lower trade costs. The project also supports a Coordinated Regional Border Management Academy to certify border control officers, helping to ensure that procedures are followed according to a uniform standard. In addition, the project provides technical assistance to trade and regulatory agencies and regional business associations to comprehensively implement key elements of the WTO TFA.
- Workshops on the U.S. regulatory system, internal standards, and WTO obligations for CAFTA–DR Parties. The purpose of these workshops was to highlight for the CAFTA–DR Parties how the U.S. regulatory system operates, as well as support resolution of a number of outstanding regulatory issues that disrupt trade between the United States and CAFTA–DR Parties.

*For further discussion on trade capacity building, see Chapter III.I Trade Capacity Building.*

## 4. Chile

The United States–Chile Free Trade Agreement (FTA) entered into force on January 1, 2004. Under the FTA, as of January 1, 2015, Chile provides duty-free access to all goods exports.

### *Operation of the United States–Chile Free Trade Agreement*

The United States–Chile Free Trade Commission (FTC) is the central oversight body for the FTA. The FTC last met in October 2018. In 2021, the United States continued to engage with Chile on several topics, including concerns about changes to Chile’s pension system affecting the rights of U.S. investors, and longstanding intellectual property rights issues associated with the implementation of Chapter 17 (Intellectual Property Rights) of the U.S.–Chile FTA.

### *Environment*

*For a discussion on environment-related activities, see Chapter II.G.I Trade and the Environment Free Trade Agreements and Bilateral Activities.*

### *Labor*

The United States continued its engagement with Chile on labor issues in 2021, including by continuing a cooperative dialogue under the FTA labor cooperation mechanism to exchange information and best practices on labor matters. In its [2020 Report on Findings on the Worst Forms of Child Labor](#), the U.S. Department of Labor recognized Chile as having made “moderate advancement” in its efforts to eliminate the worst forms of child labor.

## 5. Colombia

The United States–Colombia Trade Promotion Agreement (the Agreement) entered into force on May 15, 2012. Under the Agreement, Colombia provides duty-free access to all U.S. consumer and industrial products. 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. agricultural 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.

## *Operation of the United States–Colombia Trade Promotion Agreement*

The United States–Colombia Free Trade Commission (FTC) is the central oversight body for the Agreement. At its meeting in October 2021, the FTC reviewed implementation and operation of the Agreement. The Agreement Committees on Agriculture, Sanitary and Phytosanitary Measures, and Technical Barriers to Trade met in 2021.

### *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

### *Environment*

*For a discussion on environment-related activities, see Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities.*

### *Labor*

The United States engaged with the Colombian Government on labor issues throughout 2021. Much of the engagement focused 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 Agreement 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 2021, the DOL published its [second periodic review](#) of the 2017 DOL report and engaged with the Government of Colombia in addressing the review findings. Office of the U.S. Trade Representative (USTR) and DOL officials frequently engaged with officials in Colombia and Washington, D.C. to discuss labor issues of interest and maintain close coordination on labor issues, including those identified in the second periodic review. The DOL maintains a Labor Attaché at the U.S. Embassy in Bogotá to monitor labor issues and engage with Colombian officials and labor stakeholders, highlighting the U.S. Government’s commitment to ensuring close engagement with Colombia on labor rights.

In 2021, the Colombian Government took some steps to address the issues raised in the report, including increasing its number of labor inspectors and implementing the electronic case management system. 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 2021, the DOL managed technical assistance projects totaling approximately \$26 million in funding that aim to improve labor law enforcement in Colombia and promote labor rights covered by the Agreement. For example, these projects help 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. In its [2020 Report on the Findings on the Worst Forms of Child Labor](#), the DOL recognized Colombia as having made “significant advancement” in its efforts to eliminate the worst forms of child labor.

*For a discussion on labor-related activities, see Chapter III.H.1 Trade and Labor Free Trade Agreements and Bilateral Activities.*

## 6. Israel

The United States–Israel Free Trade Agreement (FTA) entered into force on September 1, 1985. The Agreement was the United States’ first FTA, and continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency.

### *Operation of the United States–Israel Free Trade Agreement*

The United States–Israel Joint Committee (JC) is the central oversight body for the FTA. At its meeting in December 2020, the JC explored potential new collaborative efforts to increase bilateral trade and investment. The United States and Israel noted Israel’s progress in addressing a number of standards-related and customs barriers to bilateral trade, and the countries held in-depth discussions about possibilities for further cooperation in the area of services, investment, and digital trade.

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 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 existing disparities, the United States remains committed to negotiating a more balanced permanent successor agreement. The first round of negotiations was held in November 2018 and a second round in March 2019. At the December 2020 JC meeting, the United States and Israel reaffirmed their commitment to the negotiation of a permanent ATAP.

### *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

## 7. Jordan

The United States–Jordan Free Trade Agreement (FTA) entered into force on December 17, 2001. Under the FTA, as of January 1, 2010, Jordan provides duty-free access to substantially all U.S. exports.

Jordanian exporters benefit from the Qualifying Industrial Zones (QIZs) program established by the U.S. Congress in 1996. The QIZ program allows products exported from Jordan 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. QIZ products account for about one percent of Jordanian exports to the United States. The QIZ share of Jordanian exports is declining relative to the share of Jordanian exports shipped to the United States under the FTA.

### *Operation of the United States–Jordan Free Trade Agreement*

The United States–Jordan Joint Committee (JC) is the central oversight body for the FTA. At the July 2019 JC meeting, the United States had pressed Jordan to: (1) eliminate the ban on imports of U.S. genetically-engineered food products; (2) rely on international, instead of EU standards, for manufactured and industrial products; and, (3) continue to protect geographical indications (GIs) through a trademark system instead of adopting EU GI barriers. Between 2020 and 2021, Jordan took steps to address these issues.

Jordanian 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*

The United States 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. The United States 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 (Implementation Plan). Pursuant to its commitments under the Implementation Plan, Jordan has improved the coordination of inspections in garment factory dormitories and continued those improvements in 2021 through additional technical support and through increased use of technology to conduct remote inspections during the COVID-19 pandemic.

The U.S. Government continued to engage with the Jordanian Ministry of Labor (MOL) on Implementation Plan commitments in 2021, and the International Labor Organization (ILO) Better Work program continued to support Implementation Plan objectives.

The MOL continues to work with the U.S. Department of Labor (DOL)-funded 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 the ILO Better Work program to ensure that factory-level audits are made publicly available. In 2021, the ILO Better Work program supported the garment worker union in developing a strategic plan to be more transparent and democratic, and supported the establishment of a migrant liaison to enable the garment worker union to better reach the 75 percent migrant workforce. The ILO Better Work program has begun to develop a unit within the labor inspectorate to promote knowledge of labor standards and inspection best practices within the MOL, and began a pilot program to address the mental health of migrant workers. The DOL also funded the expansion of its work with the U.S. Federal Mediation and Conciliation Services to expand a train-the-trainers program within the Ministry of Labor to governorates outside Amman to better address collective disputes, and enhanced training to include proactive conflict mitigation and mediation strategies with the private sector and trade unions.

*For further discussion on labor-related activities, see Chapter III.H.1 Trade and Labor Free Trade Agreements and Bilateral Activities.*

## **8. Korea**

The United States–Korea Free Trade Agreement (KORUS) entered into force on March 15, 2012. To rectify shortcomings in KORUS, in 2018 the United States negotiated further amendments and modifications. These amendments and modifications, which entered into force on January 1, 2019, 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 included

measures to address 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.

### *Operation of the United States–Korea Free Trade Agreement*

The Joint Committee (JC) is the central oversight body for KORUS. The JC convened in Seoul in November 2021. At the JC meeting, the Ministers agreed to initiate new approaches through enhanced channels of communication to effectively address emerging trade-related issues in areas such as supply chain challenges, emerging technologies, the digital ecosystem, and trade facilitation, with the intention of deepening cooperation to enable common approaches and responses to challenges facing global trade. They also affirmed the importance of labor and environmental issues to the welfare of our people and agreed to hold meetings of the KORUS Labor Affairs Council and KORUS Environmental Affairs Council in 2022 to advance cooperation in these areas.

The United States monitors and enforces implementation of KORUS commitments through the 21 committees and working groups established under the Agreement. Throughout 2021, the United States continued to use the committees and working groups to raise and resolve trade issues and ensure Korea is implementing its obligations under the Agreement. The Financial Services Committee, Technical Barriers to Trade Committee, and the Automotive Working Group met in June 2021, and the Committee on Textile and Apparel Trade Matters met in September 2021. In November 2021, the Services and Investment Committee meeting was held. Meetings of the Committee on Agricultural Trade and the Committee on Sanitary and Phytosanitary (SPS) Matters for the 2021 cycle were postponed due to pandemic-related delays.

Issues addressed in these meetings included: (1) Korea’s implementation of KORUS obligations related to cross-border data transfers by financial service providers; (2) automotive-related regulations; (3) regulations affecting fair market access for online content; (4) procurement of cloud computing services; (5) Korea’s restrictions on the supply of legal services; (6) impediments to U.S. meat and poultry exports; (7) Korea’s approval process for genetically engineered products; (8) Korea’s positive list system for pesticides; (9) Korea’s administration of its tariff-rate quotas on agricultural products.

The United States also addressed KORUS compliance and other trade issues through regular inter-sessional meetings and other engagements with the Korean Government. Throughout 2021, the Office of the U.S. Trade Representative continued to lead extensive U.S. Government engagement with Korea on agricultural biotechnology. This engagement provided the opportunity to share information on science-based policy and regulatory approaches in the United States that enable access to established and emerging technologies, while providing more meaningful opportunities for private sector technology innovators to engage with policymakers in Korea.

### *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

### *Environment*

*For a discussion on environment-related activities, see Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities.*

## *Labor*

*For a discussion on labor-related activities, see Chapter III.H.1 Trade and Labor Free Trade Agreements and Bilateral Activities.*

## **9. Mexico and Canada**

The United States–Mexico–Canada Agreement (“USMCA” or “Agreement”) entered into force on July 1, 2020. The USMCA maintains the zero tariffs among the three countries that were in place under the North American Free Trade Agreement (NAFTA), while also modernizing the Agreement to include provisions covering digital trade and small and medium-sized enterprises (SMEs). The Agreement importantly recognizes that SMEs are a driving force of economic growth and includes new mechanisms to help SMEs make better use of the Agreement. The USMCA features strong, enforceable labor and environmental obligations in the core text of the Agreement.

The USMCA also includes updated rules of origin for automobiles and automotive parts that create strong incentives to invest and manufacture in the United States and North America, ensuring that benefits of the USMCA provisions accrue to the Parties.

The Agreement contains important improvements benefiting American farmers, ranchers, and agribusinesses, including expanded access into the Canadian market for U.S. dairy, poultry, and egg products. *(For further information, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.)*

The USMCA consists of strong commitments on digital trade, financial services, and intellectual property rights. It also addresses non-tariff barriers that can hinder U.S. exports through new provisions on transparency and regulatory matters, including in chapters covering technical barriers to trade, sanitary and phytosanitary measures, and a new chapter on good regulatory practices. Finally, the Agreement contains provisions to combat subsidies and non-market practices that have the potential to disadvantage American workers and businesses, including a chapter to address unfair currency practices, rules on trade distortions caused by state-owned enterprises (SOEs), and transparency obligations with respect to any USMCA Party’s future trade negotiations with non-market economies.

The first Free Trade Commission meeting under the USMCA took place on May 18, 2021. During 2021, the following committees established by the Agreement have convened: Rules of Origin and Origin Procedures; Textiles and Apparel Trade Matters; Trade Facilitation; Sanitary and Phytosanitary Measures; Technical Barriers to Trade; Transportation Services; Financial Services; Intellectual Property Rights; State-Owned Enterprises and Designated Monopolies; Small and Medium-Sized Enterprises (SMEs); Competitiveness; Good Regulatory Practices; Agricultural Trade; Working Group for Cooperation on Agricultural Biotechnology; Labor Council; Environment Committee; and, Temporary Entry.

### **Operation of the United States–Mexico–Canada Agreement**

#### *Automotive Rules*

The USMCA contains new rules of origin for motor vehicles, which require a specific amount of North American content in the final vehicle. The USMCA raises regional value content requirements to 75 percent for automobiles, compared to 62.5 percent under the NAFTA. The USMCA also requires that at least 70 percent of a producer’s steel and aluminum purchases originate in North America. The USMCA

also introduced a new labor value content rule that requires that a certain percentage of qualifying vehicles be produced by employees making an average of at least \$16 per hour.

The USMCA implementing legislation required the establishment of an Interagency Committee on Trade in Automotive Goods (Interagency Autos Committee), which was established on February 28, 2020. The Committee met regularly in 2021 to monitor the implementation of the USMCA's automotive rules of origin, including the alternative staging regime and implementation of the Uniform Regulations.

In order to provide vehicle manufacturers time to adjust to these new requirements, the USMCA provides producers with the opportunity to apply for an alternative staging regime that allows producers to gradually meet regional value content levels for up to five years before satisfying the standard requirements. Producers are required to report annually to the Office of the U.S. Trade Representative (USTR) on the operation of their approved alternative staging regime, as well as the status and progress of their efforts to utilize more U.S. and North American content in order to meet the standard USMCA automotive rules of origin.

### *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities and Chapter III.C.4 Agriculture and Trade Enforcing Trade Agreements for American Agriculture.*

### *Environment*

The USMCA Environment Chapter obligations are fully enforceable under the USMCA's dispute settlement mechanism and address key environmental challenges such as illegal, unreported, and unregulated (IUU) fishing for disciplining harmful fisheries subsidies. The USMCA commits the United States, Mexico, and Canada to take actions to combat and prevent trafficking in timber, fish, and other wildlife, and includes provisions to address other environmental issues such as air quality and marine litter. The United States–Mexico–Canada Agreement Implementation Act (P.L. 116-113) (USMCA Implementation Act) allocates over \$400 million in new resources to agencies to support cooperation and enhanced monitoring and enforcement of USMCA environment provisions, including resources to support the construction of high-priority wastewater facilities along the United States–Mexico border as well as cooperation to combat IUU fishing and address marine litter. USTR was allocated \$60 million of these resources over four years to bolster monitoring and enforcement of USMCA obligations. These resources supported the Interagency Environment Committee to monitor and enforce USMCA environmental obligations and three new environment attaché positions in the U.S. Embassy in Mexico City, Mexico, to liaise directly with government, industry, and civil society counterparts to further assist with monitoring and enforcement of environmental obligations. Finally, the resources allocated to USTR have enabled it to strengthen other U.S. Government agencies' capacity to deliver on their respective monitoring and enforcement mandates, to include providing additional resources that enhance U.S. intelligence and enforcement capacity; promote sustainable forest management and combat illegal logging; and promote sustainable fisheries management and conservation of marine species.

In parallel with the USMCA Environment Chapter, the United States, Mexico, and Canada agreed to continue their longstanding and successful history of environmental cooperation under a modernized Commission on Environmental Cooperation (CEC), as outlined in the new Environmental Cooperation Agreement (ECA), which entered into force on July 1, 2020. Among other objectives, the ECA supports the implementation of the USMCA Environment Chapter commitments. The ECA facilitates trilateral cooperation in a variety of areas, including efforts to reduce pollution, strengthen environmental

governance, conserve biological diversity, and sustainably manage natural resources. The ECA updates and supersedes the North American Agreement on Environmental Cooperation.

The CEC Council met virtually on September 10, 2021 to affirm the obligation to support the implementation of the USMCA Environment Chapter and to recognize the importance of cooperation to achieve shared environmental goals and to promote sustainable development with strengthened trade and investment relations that will benefit communities across North America, including underserved and vulnerable communities. In 2021, 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.

*For further discussion on the USMCA Environment Chapter, see Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities.*

### *Labor*

The USMCA's robust and comprehensive labor provisions are fully incorporated into the text of the Agreement and fully enforceable under the Agreement's dispute settlement mechanism. Among other obligations, the USMCA 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 USMCA also includes an innovative Rapid Response Mechanism (RRM) in the dispute settlement chapter to address protection of association and collective bargaining rights at the facility level. The new mechanism 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 2021, the United States initiated the RRM with regard to two cases. The U.S. Government initiated the RRM seeking review of alleged denial of rights at a General Motors facility in Silao, Mexico, marking the first self-initiated labor enforcement action by the United States under a free trade agreement. The U.S. Government also initiated the RRM seeking review of alleged denial of rights at the Tridonex automotive parts facility in Matamoros, Mexico, in response to a petition filed jointly by labor organizations in the United States and Mexico. Both of these requests resulted in outcomes that are producing important, concrete results for workers.

The USMCA also includes a Labor Chapter 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 or reject new and existing collective bargaining agreements. Mexico enacted these labor law reforms in 2019 and instituted a phased approach to initiating the operation of a new Federal Conciliation and Labor Registration Center and labor courts throughout the country. The first phase of implementation began in 2020, with eight Mexican states transitioning labor justice matters to the new institutions. In 2021, during a second phase, an additional 13 Mexican states transitioned to the new institutions. The third phase, during which the remaining 11 states will undertake the transition, is scheduled for 2022. Throughout 2021, the U.S. Government continued to consult closely with the Mexican Government regarding the implementation of the reforms to ensure compliance with Mexico's obligations under the USMCA, including through the Interagency Labor Committee for Monitoring and Enforcement (Interagency Labor Committee).

The Interagency Labor Committee, co-chaired by the U.S. Trade Representative and the Secretary of Labor, was established in April 2020 and met regularly in 2021 to review labor rights issues in Mexico and prepare reports to the U.S. Congress. The USMCA Implementation Act allocates \$30 million over four years for USTR to support monitoring compliance with labor obligations, including through the Interagency Labor Committee. These resources supported hiring three additional employees in USTR's Office of Labor Affairs during 2021 and the designation of a total of five attorneys to cover USMCA labor issues in the

Office of the General Counsel. In addition, the Office of the U.S. Trade Representative selected a Senior U.S. Trade Representative to Mexico, a new position intended to support the coordination of USMCA labor and environmental issues in Mexico, as well as other USMCA implementation matters. The official works closely with the U.S. Department of Labor’s Labor Attachés and the Department of State’s Labor Counselor.

*For further discussion on labor-related activities, see Chapter III.H.1 Trade and Labor Free Trade Agreements and Bilateral Activities.*

## **10. Morocco**

The United States–Morocco Free Trade Agreement (FTA) entered into force on January 1, 2006. The FTA has supported the ongoing economic and political reforms in Morocco and has laid the groundwork for improved commercial opportunities for U.S. exports to Morocco in several agricultural and industrial sectors.

### *Operation of the United States–Morocco Free Trade Agreement*

The United States–Morocco Joint Committee (JC) is the central oversight body for the FTA. At its meeting on July 16, 2019, the JC explored customs, intellectual property protection and enforcement, the environment, and labor. Though the COVID-19 pandemic prevented JC meetings in 2020 and 2021, discussions with Morocco since the 2019 meeting have focused on various agricultural and sanitary and phytosanitary (SPS) issues, geographical indications, certain customs issues, intellectual property protection, and a number of textile and apparel matters.

### *Agriculture and Sanitary and Phytosanitary Engagement*

At the United States–Morocco FTA Agriculture Subcommittee and SPS Subcommittee meetings held in October 2021, the United States and Morocco continued discussions on the use in Moroccan markets of common names for meats and cheeses. Morocco and the United States also reviewed SPS issues and paths forward. In addition, the United States and Morocco considered increasing cooperation on agricultural trade issues of mutual interest.

*For further discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

### *Labor*

In 2021, the Office of the U.S. Trade Representative (USTR) continued to monitor labor issues in Morocco. Morocco continued to implement a new domestic worker law despite complications posed by the COVID-19 pandemic. The law 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 JC meetings. The U.S. Department of Labor (DOL) also 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 its [2020 Report on the Findings on the Worst Forms of Child Labor](#), the DOL recognized Morocco as having made “moderate advancement” in its efforts to eliminate the worst forms of child labor.

## 11. Oman

The United States–Oman Free Trade Agreement (FTA) entered into force on January 1, 2009. The FTA, along with other U.S. FTAs in the Middle East and North Africa (MENA) region, promotes economic reform and openness throughout the region. Under the FTA, Oman provides duty-free access to all industrial and consumer products, and contains comprehensive obligations for services and investment.

### *Operation of the United States–Oman Free Trade Agreement*

The United States–Oman Joint Committee (JC) is the central oversight body for the FTA. Previous 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 the process for bringing the FTA into force, Oman enacted major labor reforms in 2006, allowing for the formation of trade unions in Oman for the first time. The new regulations provided for the establishment of the General Federation of Oman Trade Unions (now the General Federation of Oman Workers), which held its founding conference in 2010. Oman has since seen an increase in unionization with over 270 enterprise-level unions and several sectoral sub-federations for trade unions established by the beginning of 2020, including in the oil, gas, and industrial sectors. In 2021, The Office of the U.S. Trade Representative (USTR) and the U.S. Department of Labor (DOL) continued to monitor labor rights in Oman pursuant to labor provisions of the FTA. In its [2020 Report on the Findings on the Worst Forms of Child Labor](#), the DOL recognized Oman as having made “moderate advancement” in its efforts to eliminate the worst forms of child labor. The Royal Oman Police, Ministry of Labor, and Ministry of Foreign Affairs all created offices dedicated to counter-trafficking in persons.

## 12. Panama

The United States–Panama Trade Promotion Agreement entered into force on October 31, 2012. Under the Agreement, as of January 1, 2021, Panama provides duty-free access to all U.S. consumer and industrial products. 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 (after a 15-year phase-out period). Tariffs on most sensitive agricultural products will be phased out in 18 to 20 years. The Agreement also provides access to Panama’s estimated \$37.8 billion services market in 2020 (latest data available).

### *Operation of the United States–Panama Trade Promotion Agreement*

The United States–Panama Free Trade Commission (FTC) is the central oversight body for the Agreement. The United States and Panama continued to work cooperatively in 2021 to address a few remaining implementation issues, resulting in new opportunities for traders and investors.

### *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

## *Environment*

*For a discussion on environment-related activities, see Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities.*

## *Labor*

In conjunction with the Cooperative Labor Dialogue under the Agreement, in 2021 the U.S. Federal Mediation and Conciliation Service continued to provide trainings to Panama's Inter-American School for Social Dialogue, Tripartism and Conflict Resolution.

## **13. Peru**

The United States–Peru Trade Promotion Agreement entered into force on February 1, 2009. Under the Agreement, customs duties for 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.

### *Operation of the United States–Peru Trade Promotion Agreement*

The United States–Peru Free Trade Commission (FTC) is the central oversight body for the Agreement. The FTC last met in September of 2018.

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 Peru must 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.

## *Agriculture*

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

## *Environment*

In September, the United States and Peru undertook a process to select a new Executive Director of the U.S.–Peru Secretariat for Submissions on Environmental Enforcement Matters. The new Executive Director was selected in December 2021 and will serve a term of two years beginning in early 2022.

*For further discussion on environment-related activities, see Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities.*

## *Labor*

In 2021, the U.S. Government continued to engage with the Government of Peru on the issues identified in the March 2016 U.S. Department of Labor (DOL) report in response to a July 2015 public submission under the Agreement's Labor Chapter. The submission 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 and agricultural sectors.

In 2021, the DOL continued to fund three technical assistance projects to improve Peru’s enforcement of labor laws and compliance with the Agreement’s 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 [2020 Report on Findings on the Worst Forms of Child Labor](#), the DOL recognized Peru as having made “significant advancement” in its efforts to eliminate the worst forms of child labor. The report noted that the Government of Peru had passed a law setting the minimum age for domestic work at 18 years. The Government of Peru also had carried out inspections to identify children working in dangerous conditions in Lima’s garment sector.

*For further discussion on labor-related activities, see Chapter III.H.1 Trade and Labor Free Trade Agreements and Bilateral Activities.*

## **14. Singapore**

The United States–Singapore Free Trade Agreement (FTA) entered into force on January 1, 2004.

### *Operation of the United States–Singapore Free Trade Agreement*

The United States–Singapore Joint Committee is the central oversight body for the FTA. The Joint Committee met in October 2021. During the meeting, the United States and Singapore agreed to work together on shared areas of interest through the FTA framework, including on areas such as environment, labor, digital trade, supply chains, and intellectual property. In 2021, the United States continued to work closely with Singapore to deepen the bilateral trade relationship and coordinate on issues of regional and international importance.

### *Environment*

*For a discussion on environment-related activities, see Chapter II.G.I Trade and the Environment Free Trade Agreements and Bilateral Activities.*

## **B. Other Negotiating Initiatives**

### **1. The Americas**

#### **Free Trade Agreements**

The United States has 6 free trade agreements (FTAs) with 12 countries in the Americas: Mexico and Canada under the United States–Mexico–Canada Agreement (2020), which replaced the North American Free Trade Agreement (1994); Chile (2004); Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic under the Dominican Republic–Central America–United States Free Trade Agreement (2006-2009); Peru (2009); Colombia (2012); and Panama (2012).

*For a discussion on these trade agreements, see Chapter I.A Free Trade Agreements in Force.*

## Trade and Investment Framework Agreements and Other Bilateral Trade Mechanisms

The Office of the U.S. Trade Representative (USTR) chairs bilateral meetings with non-FTA partners in the Americas to discuss a wide range of issues, including market opening opportunities, regulatory matters, enhancing opportunities for small and medium-sized enterprises (SMEs), trade related aspects of labor and environment, and resolving trade issues with those governments. The United States has Trade and Investment Framework Agreements (TIFAs) or Trade and Investment Council Agreements (TICs) in force with Argentina, Bolivia, the Caribbean Community, Ecuador, Paraguay, and Uruguay. With Brazil, the United States has in force an Agreement on Trade and Economic Cooperation (ATEC).

In 2021, the United States continued its engagement with its non-FTA partners in the region with the goal of resolving trade problems and promoting inclusive trade policies. The activities below describe the key outcomes that advance the U.S. trade and investment agenda with these countries.

### *Argentina*

The United States–Argentina TIFA established the United States–Argentina Council on Trade and Investment which serves as a venue for engagement on a broad range of bilateral trade issues, such as market access, intellectual property (IP) rights and protection, and cooperation on shared objectives at the World Trade Organization (WTO) and other multilateral fora. The last Council meeting was held in October 2018.

The Innovation and Creativity Forum for Economic Development (the Forum), established under the TIFA, serves as a forum to discuss IP issues of mutual interest, including geographical indications, industrial designs, and the importance of IP protections for SMEs. In November 2021, the United States and Argentina held the seventh meeting of the Forum, by videoconference. They discussed policies to support innovation, the impact of the COVID-19 pandemic, and the importance of enforcement.

In 2021, the United States raised a range of bilateral issues during the Argentina Trade Policy Review at the WTO.

### *Brazil*

Bilateral dialogue with Brazil is conducted through the United States–Brazil Commission on Economic and Trade Relations, 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, IP rights and innovation, and technical barriers to trade.

#### *United States–Brazil Protocol to the Agreement on Trade and Economic Cooperation Relating to Trade Rules and Transparency*

The United States and Brazil Protocol Relating to Trade Rules and Transparency was approved by the Brazilian Congress on November 17, 2021. The new Protocol is an update to the ATEC which entered into force in 2011. The ATEC Protocol with Brazil is the first of its kind and highlights the importance of openness and procedural fairness in trade rules. It comprises three annexes, each with state-of-the-art provisions for trade agreements: Trade Facilitation and Customs Administration, Good Regulatory Practices, and Anti-Corruption. In August 2021, USTR officials traveled to Brazil to discuss implementation of the Protocol and other Administration priorities.

During 2021, the United States and Brazil also engaged in technical work in other areas, such as technical barriers to trade, intellectual property (IP) rights, and agricultural issues.

### *Caribbean Community (CARICOM)*

The last meeting of the United States–CARICOM TIFA was held in June 2019 in Miami.

Seventeen Caribbean 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 United States–Caribbean Basin Trade Partnership Act (CBTPA). Eight of the CBERA beneficiary countries and territories are also beneficiaries under CBTPA. CBTPA has been renewed by Congress several times since it was enacted, most recently on October 10, 2020 when the program was extended until September 30, 2030.

CBI benefits were further expanded with the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE Act), the HOPE II Act of 2008 (HOPE II Act), and the Haitian Economic Lift Program Act of 2010 (HELP Act), which provided Haiti preferential treatment for its textile and apparel products. The 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–Ecuador TIC is the forum for discussing trade and investment priorities. Six working groups met in-person or virtually throughout 2020 and 2021. The working groups cover: (1) IP; (2) agriculture; (3) market access, customs, and trade facilitation; (4) labor; (5) environment; and, (6) investment, services, and digital trade.

### *United States–Ecuador Protocol to the Trade and Investment Council Agreement Relating to Trade Rules and Transparency*

The United States–Ecuador Protocol on Trade Rules and Transparency entered into force on August 5, 2021. The new Protocol is an update to the TIC which entered into force in 1990. The Protocol establishes high-standard trade rules with Ecuador, based on the United States–Mexico–Canada Agreement and a similar Protocol with Brazil. It comprises four annexes, each with state-of-the-art provisions for trade agreements: (1) Customs Administration and Trade Facilitation; (2) Good Regulatory Practices; (3) Anti-Corruption; and, (4) Small and Medium-Sized Enterprises.

### *Paraguay*

Although the U.S.–Paraguay TIFA formally entered into force in March 2021, the United States and Paraguay had convened technical discussions in December 2020, including on a Work Plan on IP rights to improve the situation for IP in Paraguay. Paraguay is on the Special 301 Watch List. In 2021, the Parties advanced discussions on the Work Plan. The United States and Paraguay continued working under the TIFA in order to deepen trade relations and address trade policy matters of mutual interest.

### *Uruguay*

On August 5-6, 2021, Uruguay hosted the ninth TIC meeting under the United States–Uruguay TIFA in Montevideo, Uruguay. During that meeting, the United States and Uruguay discussed a range of bilateral trade and investment issues, including trade facilitation, agricultural market access, inclusive trade policies

and improvement of opportunities for SMEs, and the importance of high labor and environmental standards in their trade relationship. The two countries also agreed to launch negotiations to update the TIFA with a Protocol on Trade Rules and Transparency, based on the United States–Mexico–Canada Agreement and similar protocols with Brazil and Ecuador.

*For further discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

## **2. Europe and the Middle East**

The United States in 2021 used free trade agreements (FTAs), bilateral investment treaties (BITs), negotiations on select issues, trade and investment framework agreements (TIFAs), enforcement tools, 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, and countries in the Middle East and North Africa (MENA). The goals of these engagements were 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, improve protection of worker rights, and, where relevant, advance countries' accessions to the World Trade Organization (WTO). (*For a discussion on WTO accessions, see Chapter IV.J.6 Accessions to the World Trade Organization.*)

In 2021, the United States engaged with the EU to reduce non-tariff barriers to U.S. exports and to strengthen cooperation on global trade issues and on third countries of common concern, especially China. The United States continued to press Russia to implement fully its WTO commitments and promoted policies in Eurasia to promote transparent and predictable markets based on the rule of law in an effort to further economic security in the region. U.S. efforts in the MENA region centered on promoting further economic reforms in partner countries, with a view toward encouraging those countries to open their economies to further engagement with the United States.

### **European Union**

The U.S. trade and investment relationship with the EU is the largest and most complex economic relationship in the world. Transatlantic trade flows (goods and services trade plus earnings and payments on investment) averaged an estimated \$4.7 billion each day of 2021 (based on the first three quarters of 2021). The total stock of transatlantic investment was \$4.6 trillion in 2020 (latest data available).

#### *U.S.–EU Trade and Technology Council*

During their June 15, 2021 summit meeting in Brussels, President Biden and EU leaders announced the establishment of the U.S.–EU Trade and Technology Council (TTC). In their joint statement, the leaders affirmed the shared goals of strengthening the U.S.–EU trade and investment relationship in ways that would promote mutual competitiveness and prosperity; help mitigate the adverse impact of climate change, protect the environment, promote workers' rights, and expand resilient and sustainable supply chains; protect U.S. and EU businesses and workers from the unfair trade practices of non-market economies; and, promote the deployment of new technologies based on shared democratic values.

The Office of the U.S. Trade Representative (USTR), in collaboration with the National Security Council and the Departments of State and Commerce, played a lead role in implementing the leaders' summit mandate during 2021, preparing the ground for the successful inaugural meeting on September 29, 2021 of the TTC co-chairs, including the U.S. Trade Representative, Secretary of Commerce, and Secretary of State. The TTC's work is being carried forward in 10 working groups, one of which, focusing on Global Trade

Challenges, is led on the U.S. side by USTR, and another of which, on Climate and Clean Technologies, is co-led by USTR and other agencies. Drawing on input from Congress and stakeholders, with whom USTR consulted throughout the summer and fall of 2021, the Global Trade Challenges Working Group aims to achieve more effective autonomous, coordinated, and joint action in three main areas: (1) responding to harmful policies and practices of non-market economies; (2) avoiding the imposition of unnecessary barriers to trade in products and services derived from emerging technologies; and, (3) promoting protection for labor rights in global supply chains.

During 2021, the USTR continued to work closely with allies and partners, including the EU, to address China's non-market practices. USTR consulted with the EU and with EU Member States on issues involving China, including China's policies on forced technology transfer, subsidies and support for state enterprises, as well as shared concerns about a number of other non-market features of China's economy and policies. USTR also agreed to renew the Trilateral partnership with the EU and Japan to address the global challenges posed by the non-market policies and practices of third countries.

Throughout 2021, USTR continued robust bilateral engagement with the EU on non-tariff barrier concerns across a broad range of sectors, including in standards and conformity assessment as well as other elements of proposed EU regulations and directives.

### **United Kingdom**

In 2021, the United States continued to engage with the United Kingdom (UK), including through multiple Trade Minister and staff level meetings, to discuss how best to advance our bilateral and multilateral trade and investment relationship. USTR reviewed the status and objectives of the U.S.–UK trade agreement negotiations, launched in May 2020, for consistency with the Administration's trade policy priorities. In June 2021, USTR announced a successful resolution of the WTO Large Civil Aircraft dispute involving the UK through a cooperative framework agreement. In October 2021, USTR announced the termination of the (suspended) Section 301 duties on the UK related to its digital services tax as a result of the OECD global tax agreement.

### **Turkey and the Middle East and North Africa**

Rapid changes and political instability in the MENA region over the past decade have posed ongoing challenges with respect to U.S. trade and investment relations with MENA countries. The region continues to see uneven progress on economic and trade reforms, and many of the underlying economic drivers of political and social instability have yet to be addressed. However, changing regional dynamics have led to some possible new opportunities for U.S. trade and investment. Throughout 2021, USTR continued exploring with other U.S. Government agencies, as well as with outside experts and stakeholders in the United States, Turkey and MENA countries, prospective areas for cooperation that could yield the results in terms of increased trade and investment.

In 2021, the United States continued to monitor, implement, and enforce existing U.S. FTAs in the region (Bahrain, Israel, Jordan, Morocco, and Oman) and sought to engage other MENA countries through existing TIFA mechanisms and preference program review processes. Due to the COVID-19 pandemic it remained difficult to engage directly with partner governments. The United States held a virtual meeting under the United States–Tunisia TIFA in May 2021.

The United States also sought further contact with the Member States of the Gulf Cooperation Council (GCC) (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates). U.S. dialogue with these countries remains aimed at ensuring that U.S. interests, including the realization of a worker-centered

trade policy, are fully represented as they pursue the modernization and diversification of their economies. The United States held a virtual meeting under the United States–United Arab Emirates TIFA in June 2021.

Due to the ongoing prominence of broader foreign policy issues in U.S.–Turkey engagement during 2021, progress on economic matters was limited, though both sides remained committed to furthering the goal of boosting two-way trade. The lack of openness in Turkey’s digital economy (including its enactment of a digital services tax), remaining inadequacies (in terms of both laws and enforcement) in Turkey’s intellectual property protection regime, and the reduction of various market access barriers for both goods and services all remained key issues of focus for the United States in the bilateral trade and investment relationship. In late 2021, Turkey agreed to remove its existing digital services taxes prior to the entry into force of Pillar 1 of the OECD political agreement on global taxation.

## **Eurasia**

Countries in Eurasia began to experience some relief from the challenges caused by the COVID-19 pandemic in 2021, but economic recovery was uncertain and unsteady. As countries emerged from lockdowns and isolation in 2021, the United States worked to support and encourage reforms that would advance economic recovery, focusing on policies that foster predictability, transparency, and the rule of law.

Throughout 2021, the United States continued technical level engagement with Ukraine on a variety of market access issues. Notably, the United States and Ukraine agreed that Ukraine would accept existing bilateral veterinary certificates for U.S. exports of animal-based products until both sides agree to have new certificates. (*For further information, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*) In addition, Ukraine agreed to exempt signatories of the WTO Agreement on Government Procurement (GPA) from Ukraine’s new government procurement restrictions. Work plans with concrete objectives were advanced to protect the flexibility of Ukraine’s regulatory regime and to strengthen the protection and enforcement of intellectual property. Notwithstanding the pandemic, the year’s work culminated in an in-person meeting of the United States–Ukraine Trade and Investment Council in Washington, D.C. in November 2021 at which both sides agreed to launch a Labor Working Group and to continue their close collaboration to foster a thriving trade and investment relationship.

The United States held a virtual meeting of the United States–Moldova Joint Commercial Commission in December 2021 at which the governments discussed steps to bolster bilateral trade, strengthen intellectual property protection and enforcement, improve the business environment, and promote internationally-recognized worker rights. (*For further information, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*)

The United States continued to engage with officials from Georgia and Armenia on trade and investment and related issues to strengthen economic relationships.

In 2021, the United States maintained limited bilateral engagement with Russia as a result of Russia’s ongoing aggression in Ukraine and attempted annexation of Crimea. Nevertheless, as Russia sustained and expanded its pursuit of an industrial policy built on import substitution and local content requirements, the United States continued to challenge Russia’s policy trajectory and question whether such policies are consistent with Russia’s WTO commitments. For additional information on Russia’s compliance with its WTO commitments, see the [2021 Report on the Implementation and Enforcement of Russia’s WTO Commitments](#). 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 consistency with WTO rules.

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

#### **Japan**

##### *United States–Japan Trade Agreement*

On March 17, 2021, Japan’s imports of U.S. beef surpassed the annual safeguard volume established under the United States–Japan Trade Agreement (USJTA). As a result, Japan applied a higher tariff of 38.5 percent on U.S. beef imports for 30 days, *i.e.*, until April 16, 2021. Triggering the safeguard also activated a consultation mechanism under the side letter to the USJTA, with United States–Japan consultations continuing through 2021 to reach agreement on a higher safeguard trigger quantity.

##### *Other Developments*

On November 17, 2021, the United States and Japan announced the formation of the United States–Japan Partnership on Trade, under which the two countries will meet on a regular basis to advance a shared agenda of cooperation across a broad range of issue areas and to address bilateral trade issues of concern to either side. The initial areas of focus for cooperation will include issues such as third-country concerns, cooperation in regional and multilateral trade-related fora, addressing labor and environment-related priorities, fostering a supportive digital ecosystem for all, and trade facilitation.

On November 17, 2021, the United States, Japan, and the European Union also agreed to renew their Trilateral partnership to address the global challenges posed by non-market policies and practices of third countries. Meetings at the Minister level began in November 2021.

In addition, the United States actively engaged with Japan in 2021 on a range of important bilateral issues of concern to U.S. stakeholders, such as issues related to Japan’s evolving regulation of the digital economy, intellectual property protections, and energy markets, to ensure measures are non-discriminatory and do not impede market access for U.S. goods exporters and service providers.

The United States also worked closely with Japan in various fora during 2021 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) and within the Asia-Pacific Economic Cooperation (APEC) forum to advance various issues.

#### **Korea**

The United States continued to engage actively with counterparts in the Korean Government through meetings of the committees and working groups established under the United States–Korea Free Trade Agreement (KORUS) in order to address trade issues as they arise. The United States also continued to hold bilateral consultations with Korea on an *ad hoc* basis as needed to address existing and emerging bilateral trade issues that may not be covered by KORUS provisions, in addition to regional and global trade issues. These meetings were augmented by senior-level engagement. In 2021, the United States raised and addressed a number of outstanding issues with Korea, including certain issues related to automobiles, agriculture, financial services, and information technology services.

*For further discussion on the United States–Korea Free Trade Agreement, see Chapter I.A.8 Korea.*

## Asia-Pacific Economic Cooperation Forum

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

Major outcomes for New Zealand's 2021 APEC host year included the Aotearoa Plan of Action, the implementation plan for the new APEC Putrajaya Vision 2040, a strategic vision of priorities for over the next two decades, and new initiatives related to harnessing an APEC-wide response to the challenges posed by the COVID-19 pandemic. With respect to U.S. priorities in APEC, the activities below describe the key outcomes that advanced 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 2021. This included seeking broader participation by APEC economies in the Building Blocks for Facilitating Digital Trade Pathfinder. These building blocks aim to promote policies among APEC economies to prevent barriers to digital trade and are supported by a majority of APEC economies. In 2021 the United States worked with other APEC economies to continue development of this initiative through policy dialogues and capacity building activities. Work in the digital trade area in 2021 also focused on globalizing the APEC Cross-Border Privacy Rules System as a stand-alone forum to reach non-APEC members and expanding support for the 2016 commitment, made by 13 APEC economies as of December 31, 2021, on a permanent customs duty moratorium on electronic transmissions.

*Trade Facilitation:* In 2021, 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 2021, APEC economies participated in a number of projects such as the APEC Alliance for Supply Chain Connectivity (A2C2), which is a U.S.-led public-private mechanism for stakeholders to formally engage in APEC's supply chain work. 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 on implementing APEC's Services Competitiveness Roadmap, primarily through the development of an APEC-wide Services Trade Restrictiveness Index (STRI), which is modeled after the existing Organization for Economic Cooperation and Development (OECD) STRI. The OECD and APEC have gathered full or partial data on 18 APEC economies that the United States anticipates will be added to the APEC STRI, with more APEC economies to be added in the future. With respect to domestic services regulations, the United States continued to support work in APEC to implement the non-binding principles on domestic regulations in services endorsed in 2018. The United States also supported the development of an online inventory of existing mutual recognition agreements (MRAs) in professional services sectors in the APEC region.

*Food and Agricultural Trade:* In 2021, 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. Within the APEC Food Safety Cooperation Forum, the United States served as the overseer for a project that focused on facilitating the use of digital food safety certificate software as a means to decrease regulatory burdens. The United States also launched a new multi-year Whole Genome Sequencing project designed to improve traceback, overall food safety management, and outbreak response by optimizing pathogen detection techniques. Additionally, within the Policy Partnership in Food Security (PPFS), the United States ran a program on facilitating youth involvement in agriculture, and was an active participant in drafting the Food Security Roadmap to 2030 to ensure that U.S. priorities such as climate and sustainable agriculture were forefront. Under the High-Level Policy Dialogue on Agricultural Biotechnology, the United States continued to emphasize the importance of risk-proportionate regulatory policies to expand trade in products of

innovative genetic technologies. (*For further information, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*)

*Intellectual Property:* In 2021, the United States continued to use its participation in APEC to build capacity and raise standards for the protection and enforcement of intellectual property in the Asia-Pacific region. This included continued U.S. Government-led work on the benefits of a modern and robust industrial design protection and enforcement system in the APEC region.

*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 is intended to underscore the importance of high standard trade agreements in not only fostering more open markets but in also removing barriers and addressing unfair practices.

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

### **China**

For information on trade with China, see [USTR's 2021 Report to Congress on China's WTO Compliance](#).

### **United States–Hong Kong Trade Relations**

In 2021, the United States continued to engage with Hong Kong, China (Hong Kong) on trade matters as appropriate. In particular, the United States has continued to press Hong Kong to update its copyright system to address concerns regarding digital copyright piracy.

### **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 (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), 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.

In June 2021, under the auspices of AIT and TECRO, the United States and Taiwan convened the first TIFA Council meeting since October 2016. The two sides discussed a range of trade and investment issues and recognized upcoming changes to Taiwan's medical device approval process. The two sides committed to intensify engagement aimed at addressing outstanding trade concerns, including with regard to market access barriers facing U.S. beef and pork producers, as well as concerns raised by the United States in areas such as copyright legislation, digital piracy, financial services, investment, and regulatory transparency. The two sides also agreed to convene meetings of several TIFA working groups and also agreed to the formation of a new Labor Working Group, which is to focus on worker-centered trade policy and cooperation on combating forced labor in global supply chains.

*For further discussion on agriculture and environment-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities and Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities, respectively.*

## **United States–Mongolia Trade Relations**

The United States and Mongolia held a sixth meeting under the United States–Mongolia Trade and Investment Framework (TIFA) 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.

## **5. Southeast Asia and the Pacific**

### **Free Trade Agreements**

Throughout 2021, the United States continued to monitor and enforce its free trade agreements (FTAs) with Australia and Singapore.

*For further discussion on the Australia and Singapore Free Trade Agreements, see Chapter I.A.1 and I.A.14, respectively.*

### **United States–Southeast Asia and Pacific Trade Relations**

In addition to the FTAs with Australia and Singapore, the United States has bilateral trade and investment framework agreements (TIFAs) with Brunei, Burma, Cambodia, Fiji, Indonesia, Laos, Malaysia, New Zealand, Philippines, Thailand, and Vietnam. In response to the Burmese military coup on February 1, 2021 and the military's violence against the Burmese people, on March 29, 2021, USTR suspended U.S. diplomatic engagement, meetings, and cooperation under the U.S.–Burma TIFA.

The United States continued to engage throughout 2021 with countries in Southeast Asia and the Pacific to pursue outcomes that would strengthen trade and economic relations. The United States' activities in the region focused on: (1) confronting structural barriers to Association of Southeast Asian Nations (ASEAN) markets; (2) leveling the playing field for U.S. exporters; (3) countering China's economic influence in the region; (4) promoting respect for internationally recognized worker rights; and, (5) deepening trade-related environmental cooperation. Notable engagements included:

- The United States met with Indonesia on a regular basis in 2021 to ensure the successful implementation of reforms undertaken in the context of the Generalized System of Preferences (GSP) market access eligibility review of Indonesia, which had closed in 2020. These reforms addressed a broad range of trade and investment issues affecting market access for U.S. goods, services, and agricultural products, and aim to expand bilateral trade for the benefit of both countries. U.S. bilateral engagement with Indonesia in 2021 also focused on labor, digital trade, and intellectual property.
- The United States terminated an investigation under Section 301 of the Trade Act of 1974 into digital services taxes (DSTs) in Indonesia, as Indonesia did not adopt or implement a DST during the period of investigation. (*For further information, see Chapter II.B.3.ii. Section 301 Digital Services Taxes.*)
- USTR made determinations following two investigations initiated in 2020 with respect to Vietnam under Section 301 of the Trade Act of 1974: (1) Vietnam's acts, policies, and practices related to the valuation of its currency; and (2) Vietnam's acts, policies, and practices related to the import and use of timber that is illegally harvested or traded. On July 23, 2021, USTR determined that

no trade action under Section 301 in the currency investigation was warranted because an agreement reached between the Department of the Treasury and the State Bank of Vietnam and associated measures called for in the agreement provided a satisfactory resolution of the matter subject to this investigation. USTR, in coordination with Treasury, monitored Vietnam's implementation of its commitments under the agreement and associated measures and will continue to monitor going forward. Separately, on October 1, 2021, the United States and Vietnam signed an agreement that addresses U.S. concerns in the timber investigation. The agreement secures commitments that will help keep illegally harvested or traded timber out of the supply chain and protect the environment and natural resources. USTR monitored Vietnam's implementation of the agreement and will continue to monitor going forward. *(For further information, see Chapter II.B.6 Section 301 Currency Valuation and Chapter II.B.5 Section 301 Illegal Timber.)*

- The United States worked to address priority market access issues and to further internationally recognized worker rights in regular bilateral and working-level TIFA meetings with countries in Southeast Asia including Cambodia, Indonesia, Philippines, Thailand, and Vietnam.

### **United States–ASEAN Trade and Investment Framework Arrangement**

The United States continued to work under the auspices of the United States–ASEAN TIFA to further enhance trade and investment ties between the United States and ASEAN, which collectively represents the United States' fourth largest trading partner. In 2021, the United States organized the first U.S.–ASEAN Trade and Labor Dialogue to discuss the importance of integrating labor commitments in trade agreements. At the annual ASEAN Economic Ministers–USTR Consultations in September 2021, the United States and ASEAN agreed to enhance cooperation on labor, environment, and SMEs. In 2021, the United States also continued cooperation with ASEAN on digital trade, IP, standards, competition, trade facilitation, and agriculture biotechnology.

### **United States–Fiji Trade and Investment Framework Agreement**

The United States and Fiji held the first meeting under the Trade and Investment Framework Agreement (TIFA) in February 2021. The TIFA establishes a framework for discussing trade and investment issues to expand and deepen bilateral ties between the two countries. At the first TIFA meeting, the United States discussed the GSP program, labor standards, market access for agricultural products, and intellectual property issues, among other things.

## **6. Sub-Saharan Africa**

Throughout 2021, the Office of the U.S. Trade Representative (USTR) worked to strengthen U.S. trade and investment ties with sub-Saharan Africa. USTR also continued to implement the Biden-Harris Administration's worker-centered trade policy and to catalyze sustainable growth across the continent. This work included: hosting the high-level Virtual African Growth and Opportunity Act (AGOA) Ministerial Meeting; managing the annual interagency AGOA country eligibility review to ensure that countries receiving AGOA preferences were in compliance with the statutory requirements; monitoring reviews of the Generalized System of Preferences (GSP) eligible sub-Saharan African countries; engaging with key stakeholders on the African Continental Free Trade Area (AfCFTA) Agreement; and working to resolve trade and investment barriers across Africa. The United States discussed these topics and others in numerous bilateral engagements over the course of the year with counterparts on the continent. The United States held several virtual and in-person meetings with Kenyan counterparts to discuss how to deepen the

trade and economic relationship between Kenya and the United States, with the ministers providing guidance to their respective teams to identify creative approaches to key issues.

During 2021, the United States sought to make progress on unwarranted barriers and market access obstacles impacting U.S. exporters across sub-Saharan Africa. For example, in the spring of 2021, South Africa increased the quota for imports of U.S. bone-in poultry meat for the 2021-2022 quota year. In addition, during the first quarter of 2021 Angola reduced restrictions on U.S. poultry imports as a result of interventions by USTR and the U.S. Department of Agriculture (USDA) bilaterally and at the World Trade Organization (Angola is one of the largest markets globally for U.S. poultry exports).

Throughout 2021, USTR also provided substantial support to the Prosper Africa initiative, the goal of which is to substantially increase two-way trade and investment between the United States and Africa.

### **The African Growth and Opportunity Act**

As a result of the 2021 annual AGOA eligibility review, 36 sub-Saharan African countries are eligible for AGOA benefits in 2022, following the termination of AGOA benefits for the Federal Democratic Republic of Ethiopia, the Republic of Guinea, and the Republic of Mali, which took effect on January 1, 2022.

The United States-Sub-Saharan Africa Trade and Economic Cooperation Forum (AGOA Forum) meets annually, alternating between the United States and a country on the sub-Saharan continent. In October 2021, the United States convened the two-day Virtual AGOA Ministerial Meeting with African counterparts, which took place in lieu of the annual AGOA Forum due to the COVID-19 pandemic.

*For further discussion on the African Growth and Opportunity Act and the Virtual African Growth and Opportunity Act Ministerial Meeting, see Chapter II.E.2 African Growth and Opportunity Act.*

### **African Continental Free Trade Area**

U.S. Trade Representative Tai met with the AfCFTA Secretary General in Washington, D.C. in December 2021. They shared their vision for further engagement and discussed ways to support regional integration, promote collaboration in support of regional value chains across Africa, attract positive investment on the continent, and improve African workers' livelihoods and opportunities.

Several new programs under development aimed at promoting regional and continental value chains under the AfCFTA include: building cross-border roads and power lines as part of the Millennium Challenge Corporation's new Regional Compact Initiative; placement of a Sanitary and Phytosanitary (SPS) Technical Advisor with the African Union Commission in Addis Ababa by the USDA to help implement the SPS Policy Framework of the AfCFTA; and the U.S. Agency for International Development continuing to conduct workshops to help prepare African entrepreneurs for the upcoming digital trade negotiations at the AfCFTA.

*For further information, see Chapter III.I Trade Capacity Building.*

### **Generalized System of Preferences Reviews**

USTR continued to monitor developments related to its on-going GSP country practice reviews in sub-Saharan Africa (Eritrea, South Africa, and Zimbabwe) and to engage with foreign governments and stakeholders regarding those reviews.

*For further discussion on the Generalized System of Preferences program, see Chapter II.E.1 Generalized System of Preferences.*

## **7. South and Central Asia**

U.S. engagement with countries across South and Central Asia in 2021 focused on advancing resolution of a range of issues related to protection of intellectual property (IP), digital and agricultural trade, and respect for internationally recognized worker rights.

The United States has bilateral Trade and Investment Framework Agreements (TIFAs) with Afghanistan, Bangladesh, Iraq, Maldives, Nepal, Pakistan, Sri Lanka, and, collectively, 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 sought 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 have been experiencing rapid economic growth and progression up the development ladder, presenting important opportunities for U.S. exporters of goods, services, and agricultural products. Digital trade is a potential engine for growth in the U.S. bilateral economic relationships with South Asian partners, though restrictive digital trade policies may hamper trade. Similarly, the United States increased its engagement on technical barriers that have affected certain U.S. export sectors.

### **United States–India Trade Relations**

Throughout 2021, the United States engaged with India on an ongoing basis in response to specific concerns affecting the full range of the bilateral trade relationship. In November 2021, the United States and India relaunched the United States–India Trade Policy Forum (TPF), which is the principal bilateral forum for discussing trade and investment issues affecting the two countries. This was the first ministerial-level TPF since 2017. During the TPF meeting, the United States and India exchanged views on a broad range of trade concerns and issued a joint statement that highlighted the resolution of certain specific trade concerns and identified areas for future engagement through the TPF technical-level workings groups on: (1) agricultural goods; (2) non-agricultural goods; (3) services and investment; and, (4) intellectual property. These TPF working groups, which include participation by senior-level officials from key U.S. agencies, provide an opportunity to achieve meaningful results and to address the general trend of increasingly trade-restrictive policies in India that continue to inhibit the potential of the trade relationship. In addition, the United States indicated that it would engage the Government of India in deeper cooperative dialogue on issues in the areas of labor, environment, digital trade, and good regulatory practices, among others

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

In 2021, the United States held a virtual Central Asia TIFA meeting in March 2021, held virtual meetings of the Central Asia TIFA Working Groups, and worked towards trade outcomes with other regional partners. The activities below describe the key outcomes that advanced the U.S. trade and investment agenda with countries in the South and Central Asia region.

*Bangladesh:* The United States terminated Bangladesh’s Generalized System of Preferences eligibility in 2013, following reviews of Bangladesh’s worker safety and worker rights deficiencies. Following a United States–Bangladesh Trade and Investment Cooperation and Facilitation Agreement (TICFA) Council meeting in March 2020 and subsequent engagement 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, including the successful negotiation of a new industry-led initiative in August 2021, those efforts continue to face resistance from Bangladeshi authorities.

In 2021, the United States also engaged Bangladesh on a full range of pressing bilateral trade issues, including technical barriers to the trade of electronics goods, policy developments affecting digital trade, digital content, cloud service provision, market access for agricultural and non-agricultural goods and services, and IP protection and enforcement.

*Pakistan:* U.S. bilateral engagement with Pakistan in 2021 focused on regulatory developments affecting digital trade, digital content, and data privacy, IP protection and enforcement, labor, market access for agricultural and non-agricultural goods and services, and technical barriers to trade (TBT). During their discussion in May 2021, the U.S. Trade Representative and Pakistan’s Adviser for Commerce and Investment exchanged views on enhancing the bilateral trade relationship and continued engagement on multilateral trade concerns.

*Nepal:* Following a TIFA meeting in December 2020, the United States engaged with Nepal periodically throughout 2021 on a range of bilateral trade issues, including customs and trade facilitation, IP, digital trade and electronic commerce, labor, financial services, and market access for agricultural goods. The Nepal Trade Preference Program, which was established in 2016, provides duty-free treatment through December 31, 2025, for 77 products from Nepal, including certain carpets, headgear, shawls, and scarves. The program is designed to assist Nepal in its economic recovery from earthquakes in 2015. The United States regularly engages with Nepal through the TIFA to ensure that Nepal is meeting the statutory criteria necessary to receive the benefits of the preference program. For further information, see the [2020 Report on the Implementation of the Nepal Trade Preference Program](#).

*Central Asia (Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan):* The United States held a virtual United States–Central Asia TIFA Council meeting in March 2021. Two observer countries—Afghanistan and Pakistan—also participated. At the first TIFA meeting of the new Administration, the U.S. Trade Representative engaged the trade ministers of Central Asia on the priorities of the Biden-Harris Administration including Build Back Better and a worker-centered trade policy. The TIFA meeting also focused on the implementation of the World Trade Organization (WTO) Trade Facilitation Agreement. Five working groups have operated under the auspices of the TIFA, covering customs, standards, sanitary and phytosanitary (SPS) issues, IP protection and enforcement, and women’s economic empowerment (WEE), and the governments agreed to launch a digital trade working group in 2022. The customs, IP, WEE, and SPS working groups met in 2021. In November 2021, the U.S. Trade Representative separately met with the Minister of Trade of Kazakhstan to discuss bilateral trade as well as the Twelfth Ministerial Conference.

*Sri Lanka:* In 2021, the United States continued to engage with Sri Lanka on trade issues related to IP protection and enforcement, labor, market access for agricultural and non-agricultural goods and services, TBT, and policy developments affecting digital trade and electronic commerce.

*Iraq:* The United States held the second meeting of the United States–Iraq TIFA Council in June 2019. The discussion focused on TBT; business climate concerns; arbitration of investment disputes; market access for agricultural goods (including poultry, rice, and wheat) and non-agricultural goods and services; and tariffs rates. In 2021, the United States continued to engage on those issues, as well as on new concerns around import bans, conformity assessment barriers, and digital trade policy.

## II. TRADE ENFORCEMENT ACTIVITIES

### A. Overview

The Office of the United States Trade Representative (USTR) coordinates the U.S. Government monitoring and enforcement of rules and norms that underlie the international trading system and promote fair, market-oriented conditions for U.S. workers and businesses. USTR enforces foreign government compliance with trade agreements to which the United States is a party, including through the use of dispute settlement procedures and applying the full range of U.S. trade laws. Vigorous monitoring and investigation efforts by USTR and relevant expert agencies, including the U.S. Departments of Agriculture, Commerce, Homeland Security, Justice, Labor, and State, help ensure that these agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing understanding and respect for international commitments, 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 World Trade Organization (WTO) bodies and committees charged with monitoring implementation and surveillance of agreements and disciplines, and use of dispute settlement as appropriate;
- Promoting U.S. interests under free trade agreements (FTAs) through work programs, accelerated tariff reductions, and strategic use of dispute settlement mechanisms, including with respect to labor and environmental obligations, such as through the United States–Mexico–Canada Agreement (USMCA) Facility-Specific, Rapid Response Mechanism<sup>2</sup>;
- Vigorously monitoring and enforcing other bilateral and plurilateral agreements;
- Invoking U.S. trade laws to promote compliance, including in conjunction with bilateral, plurilateral, and WTO mechanisms when appropriate; and
- Providing technical assistance to trading partners, especially to developing countries, to ensure that key obligations are implemented on schedule.

Through the vigorous application of U.S. trade laws and strategic use of dispute settlement procedures, the United States opens foreign markets to U.S. goods and services, helps defend U.S. workers, businesses, and farmers against unfair practices, and promotes a level playing field through promoting respect for fair, market-oriented conditions. For example, USTR’s Office of Monitoring and Enforcement leads U.S. efforts to defend U.S. interests in WTO and FTA disputes, and through investigations and actions under Section 301. 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 (IP) 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.

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<sup>2</sup> For further discussion of the Rapid Response Mechanism, see Chapter III.H.2 Trade and Labor Bilateral and Regional Activities.

## **Favorable Resolutions or Settlements**

Dispute settlement is one mechanism that the United States may use to secure benefits for U.S. stakeholders. Whenever possible, the United States has sought to reach favorable resolutions or settlements that eliminate the foreign breach without having to resort to engaging in prolonged litigation.

As of December 2021, the United States has been able to achieve this preferred result in 38 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 IP enforcement; Egypt's apparel tariffs; the European Union's (EU) market access for grains; an EU import surcharge on corn gluten feed; the EU's subsidies to Airbus for large civil aircraft; the EU's claim of compliance in the dispute involving subsidies to Airbus for large civil aircraft; 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 IP rights; and, Turkey's box office taxes on motion pictures.

## **Litigation Successes**

When U.S. trading partners have not been willing to negotiate settlements, USTR has pursued its offensive cases to conclusion, prevailing in 46 cases as of December 2021. 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 provision of agricultural domestic support for grains producers in excess of its commitment levels; China's administration of its tariff-rate quotas for grains; 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 IP 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 claim of compliance in the dispute involving 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 export subsidies on a variety of 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 IP rights protection and enforcement, and Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems.

*For further discussion on the application of these trade law tools, see Chapters II.B Section 301, II.E.3 Special 301, and II.E.4 Section 1377 Review of Telecommunications Agreements, respectively.*

### **Interagency Center for Trade Implementation, Monitoring and Enforcement**

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 2021, ICTIME provided research and analysis in support of implementation and monitoring of the China Economic and Trade Agreement. ICTIME also contributed to negotiations surrounding the Section 232 steel and aluminum tariffs and tariffs on large commercial aircraft. In the WTO context, ICTIME continued to support ongoing dispute settlement, including offensive and defensive disputes related to the Section 232 steel and aluminum tariffs and to monitor compliance with panel findings involving China's tariff rate quota administration and domestic support for corn, wheat, and rice. ICTIME continued to provide research and analysis within the WTO Committee on Agriculture regarding India's aggregate measurements of support for a variety of agricultural goods. As in previous years, ICTIME has acquired translations of, or 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 unfair foreign practices affecting U.S. commerce. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements or 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 improved market opportunities 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 through which interested persons may petition the U.S. Trade Representative to investigate a foreign government act, policy, or practice and take appropriate action. The U.S. Trade Representative also may self-initiate an investigation.

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

Actions that the U.S. 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. The Office of the United States Trade Representative (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 U.S. Trade Representative considers that the country fails to implement a World Trade Organization (WTO) recommendation, the U.S. Trade Representative must determine what further action to take under Section 301.

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

Pursuant to the President's direction, the U.S. 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.<sup>3</sup> The findings of the investigation, along with advice from the Section 301 Committee, Trade Policy Staff 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 U.S. Trade Representative in April 2018 published a notice of a determination that the following acts, policies, and practices of China are 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.

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<sup>3</sup> 82 FR 39007 (August 14, 2017).

- 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.<sup>4</sup>

With respect to the second category of acts, policies, and practices (involving technology licensing regulations), the U.S. 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.<sup>5</sup> (*For further information, see Chapter II.D WTO and FTA Enforcement.*)

To obtain the elimination of the acts, policies, and practices in the three other categories listed above, the U.S. Trade Representative, at the direction of the President, determined to impose additional duties on certain products of China. The additional duties were imposed in four tranches, referred to as List 1 through List 4. For each list, USTR invited public comment and held public hearings.

#### Lists 1 and 2

Duties were imposed on products in the first two tranches during the one-year initial period of investigation. In July 2018, an additional 25 percent duty was imposed on products in the first tranche, known as List 1, which covered 818 tariff subheadings with an approximate annual trade value of \$34 billion.<sup>6</sup> Subsequently in August 2018, an additional 25 percent duty was imposed on products in the second tranche, known as List 2, which covered 279 tariff subheadings with an approximate annual trade value of \$16 billion.<sup>7</sup>

#### List 3

In September 2018, the U.S. 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.<sup>8</sup> 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.<sup>9</sup>

#### List 4

In August 2019, the U.S. 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

<sup>4</sup> 83 FR 14906 (April 6, 2018).

<sup>5</sup> *China—Certain Measures Concerning the Protection of Intellectual Property Rights* (DS542).

<sup>6</sup> 83 FR 28710 (June 20, 2018).

<sup>7</sup> 83 FR 40823 (August 16, 2018).

<sup>8</sup> 83 FR 47974 (September 21, 2018); 83 FR 49153 (September 28, 2018).

<sup>9</sup> 84 FR 20459 (May 9, 2019).

billion.<sup>10</sup> 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, known as List 4A, and December 15, 2019 for the list in Annex C, known as List 4B. Subsequently, at the direction of the President, the U.S. Trade Representative determined to increase the rate of the additional duties from 10 percent to 15 percent.<sup>11</sup>

*i. United States–China Economic and Trade Agreement*

The cumulative effect of the tariffs imposed on the products in the four tranches succeeded in encouraging China to agree to take steps to address U.S. concerns. On December 13, 2019, the United States and China announced that they would be entering into an agreement. On January 15, 2020, they signed the Economic and Trade Agreement Between the Government of the United States of America and the Government of the People’s Republic of China (commonly referred to as the “Phase One Agreement.”) In this Agreement, China’s commitments include taking steps to address some — though not all — of the issues covered in the section 301 investigation.

On December 18, 2019, at the direction of the President, the U.S. Trade Representative suspended the additional 15 percent duties on the products covered by List 4B.<sup>12</sup> On January 22, 2020, the U.S. Trade Representative announced that, at the direction of the President, the duties on List 4A would be reduced to 7.5 percent effective February 14, 2020, the scheduled date for entry into force of the Economic and Trade Agreement.<sup>13</sup>

On February 14, 2020, the Economic and Trade Agreement entered into force. The Administration is engaged in the process of enforcing the Agreement, which involves constant monitoring and, when appropriate, raising compliance issues with the Government of China.

*For a discussion on agriculture-related activities, see Chapter III.C.2 Agriculture and Trade Bilateral and Regional Activities.*

*ii. Product Exclusions*

The U.S. Trade Representative established processes by which stakeholders may request that particular products classified within a covered tariff subheading be excluded from the additional duties.<sup>14</sup> 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. USTR subsequently established an exclusion process for products of China covered under List 3.<sup>15</sup> USTR received approximately 30,300 exclusion requests under List 3. USTR approved approximately 1,500 requests. USTR also established an exclusion process for products of China covered under List 4A.<sup>16</sup> USTR received approximately 8,800 requests and approved 575 of them.

Extension of Exclusions and Response to the COVID-19 Pandemic

The first tranche of approved exclusions expired in December 2019 and the final tranche of approved exclusions expired in October 2020. Starting in November 2019, USTR established processes for

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<sup>10</sup> 84 FR 43304 (August 20, 2019).

<sup>11</sup> 84 FR 45821 (August 30, 2019).

<sup>12</sup> 84 FR 69447 (December 18, 2019).

<sup>13</sup> 85 FR 3741 (January 22, 2020).

<sup>14</sup> 83 FR 32181 (July 11, 2018) and 83 FR 47236 (September 18, 2018).

<sup>15</sup> 84 FR 29576 (June 24, 2019).

<sup>16</sup> 84 FR 57144 (October 24, 2019).

submitting public comments on whether to extend particular exclusions.<sup>17</sup> Pursuant to these processes, USTR determined to extend 137 exclusions covered under List 1, 59 exclusions on List 2, 266 exclusions on List 3, and 87 exclusions on List 4, for a total of 549 exclusions. Most of the extended exclusions expired in December 2020.

On March 25, 2020, USTR sought public comment on additional modifications to the tariff actions in order to address the COVID-19 pandemic. On December 22, 2020, USTR announced its determination to further extend certain product exclusions on medical-care products and to make further modifications to remove Section 301 duties from additional medical-care products to address the COVID-19 pandemic.<sup>18</sup> An additional extension was announced on March 10, 2021.<sup>19</sup> On August 27, 2021, USTR sought public comment to further extend the 99 product exclusions for medical-care products.<sup>20</sup> On November 16, 2021, USTR determined to further extend 81 of the product exclusions for medical-care products for an additional 6 months.<sup>21</sup> These exclusions are now scheduled to expire May 31, 2022.<sup>22</sup>

On October 8, 2021, USTR opened a docket seeking public comment on the possible reinstatement of the 549 previously extended exclusions.<sup>23</sup> USTR is currently in the process of reviewing the public comments.

## **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. WTO panel and Appellate Body reports 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

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<sup>17</sup> See, e.g. 85 FR 6687 (February 5, 2019) and 85 FR 38482 (June 26, 2020).

<sup>18</sup> 85 FR 85831 (December 29, 2020).

<sup>19</sup> 86 FR 13785 (March 10, 2021).

<sup>20</sup> 86 FR 48280 (August 27, 2021).

<sup>21</sup> 86 FR 63438 (November 16, 2021).

<sup>22</sup> 86 FR 63438 (November 16, 2021).

<sup>23</sup> 86 FR 56345 (October 8, 2021).

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

In January 2009, the U.S. Trade Representative: (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, the U.S. Trade Representative 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, the U.S. Trade Representative 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 the U.S. Trade Representative 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 under Section 306(c) in connection with the European Union's measures. Pursuant to the notice, the Section 306(c) proceeding was terminated effective January 1, 2020, the date the EU applied the U.S.-specific TRQ allocation.

USTR continues to monitor the operation of the TRQ.

### 3. Digital Services Taxes

#### *i. France Digital Services Taxes*

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 President of France signed the bill into law on July 24, 2019.

On July 10, 2019, the U.S. Trade Representative initiated an investigation of the proposed French digital service tax (DST) pursuant to Section 302(b)(1)(A) of the Trade Act (84 FR 34042). Based on information obtained during the investigation, USTR, with the advice of the Section 301 Committee, prepared a report setting out findings of the investigation.

On December 6, 2019, 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 (84 FR 66956).

On July 10, 2020, the U.S. Trade Representative determined that action was appropriate in this investigation and to take action in the form of additional duties on certain products of France (85 FR 43292). To allow additional time for bilateral and multilateral discussions, and in recognition of France's agreement to suspend collection of its DST during 2020, the U.S. Trade Representative determined to suspend the additional duties for up to 180 days, pursuant to Section 305(a) of the Trade Act (19 U.S.C. 2415(a)) (85 FR 43292). Subsequently, the U.S. Trade Representative determined to further suspend the action in this investigation as of January 6, 2021, to allow USTR to coordinate actions in all DST investigations (86 FR 2479).

On October 8, 2021, France joined the United States and 134 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting in reaching a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy. As part of Pillar 1, all parties agreed to remove existing DSTs and other relevant similar measures, and to coordinate the withdrawal of these taxes. On October 21, 2021, the U.S. Department of the Treasury (Treasury) issued a joint statement with France and four other countries on a transitional approach to those countries' DSTs prior to entry into force of Pillar 1. Based on France's commitment to remove its DST pursuant to Pillar 1 and on its political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the Section 301 action taken in the investigation of France's DST. In coordination with Treasury, USTR is monitoring implementation of the removal of France's DST as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

#### *ii. Other Digital Services Taxes*

##### Austria

In October 2019, Austria adopted a DST that applies a five percent tax to revenues from online advertising services. The law went into force on January 1, 2020. The tax applies only to companies with at least €750 million (\$856 million) in annual global revenues for all services and €25 million (\$28 million) in in-country revenues for covered digital services (86 FR 6406).

On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of Austria's DST. On the same day, the U.S. Trade Representative requested consultations with the Government of Austria (85 FR 34709).

Based on information obtained during the investigation, USTR prepared a comprehensive report on Austria's DST. Based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that Austria's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (86 FR 6406).

On June 2, 2021, the U.S. Trade Representative determined to take action in the form of additional duties on certain products of Austria and to immediately suspend those additional duties for up to 180 days (86 FR 30361).

On October 8, 2021, Austria joined the United States and 134 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting in reaching a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy. As part of Pillar 1, all parties agreed to remove existing DSTs and other relevant similar measures, and to coordinate the withdrawal of these taxes. On October 21, 2021, Treasury issued a joint statement with Austria and four other countries on a transitional approach to those countries' DSTs prior to entry into force of Pillar 1. Based on Austria's commitment to remove its DST pursuant to Pillar 1 and on its political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative has determined to terminate the section 301 action taken in the investigation of Austria's DST. In coordination with Treasury, USTR is monitoring implementation of the removal of Austria's DST as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

### Brazil

In 2020, Brazil began considering legislative proposals that would provide for a DST. On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of the DST under consideration by Brazil. On the same day, the USTR requested consultations with the Government of Brazil (85 FR 34709).

On January 13, 2021, USTR published a status update regarding the investigation of Brazil's DST. The status update summarized the DST proposals and outlined USTR's preliminary concerns.

As of March 25, 2021, Brazil had not adopted a DST. Accordingly, the U.S. Trade Representative determined that it was appropriate to terminate the Brazil DST investigation. USTR continues to monitor the status of any proposed or adopted DST in Brazil, and may, if appropriate, initiate a new Section 301 investigation.

### The Czech Republic

In 2020, the Czech Republic began considering a legislative proposal that would provide for a DST. On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of the DST under consideration by the Czech Republic. On the same day, the U.S. Trade Representative requested consultations with the Czech Government (85 FR 34709).

On January 13, 2021, USTR published a status update regarding the investigation of the Czech Republic's DST. The status update summarized the DST proposal and outlined USTR's preliminary concerns.

As of March 25, 2021, the Czech Republic had not adopted a DST. Accordingly, the U.S. Trade Representative determined that it was appropriate to terminate the Czech Republic DST investigation. USTR continues to monitor the status of any proposed or adopted DST in the Czech Republic, and may, if appropriate, initiate a new Section 301 investigation.

### The European Union

In 2020, the European Union (EU) began a process to consider a DST which was to be proposed by the European Commission. On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of the DST under consideration by the EU. On the same day, the U.S. Trade Representative requested consultations with the EU (85 FR 34709).

On January 13, 2021, USTR published a status update regarding the investigation of the EU's DST. The status update provided a summary and outlined USTR's preliminary concerns.

As of March 25, 2021, the EU had not adopted a DST. Accordingly, the U.S. Trade Representative determined that it was appropriate to terminate the EU DST investigation. USTR continues to monitor the status of any proposed or adopted DST in the EU, and may, if appropriate, initiate a new Section 301 investigation.

### India

In March 2020, India adopted a two percent DST. The tax only applies to non-resident companies, and covers online sales of goods and services to, or aimed at, persons in India. The tax applies to companies with annual revenues in excess of approximately Rs. 20 million (approximately \$267,000). The tax went into effect on April 1, 2020 (85 FR 34709).

On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of India's DST. On the same day, the USTR requested consultations with the Government of India (85 FR 34709).

Based on information obtained during the investigation, USTR prepared a comprehensive report on India's DST. Based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that India's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (86 FR 2478).

On June 2, 2021, the U.S. Trade Representative determined to take action in the form of additional duties on certain products of India and to immediately suspend those additional duties for up to 180 days (86 FR 30356). On October 8, 2021, India joined the United States and 134 other jurisdictions participating in the OECD/ G20 Inclusive Framework on Base Erosion and Profit Shifting in reaching a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy. As part of Pillar 1, all parties agreed to remove existing DSTs and other relevant similar measures, and to coordinate the withdrawal of these taxes.

On November 24, 2021, India and the United States issued statements describing a transitional approach to India's DST prior to entry into force of Pillar 1. These statements reflect a political agreement that, in defined circumstances, the DST liability that U.S. companies accrue in India during the interim period will be creditable against future taxes accrued under Pillar 1 of the OECD Agreement. Based on the commitment of India to remove its DST pursuant to Pillar 1 and on India's political agreement to this transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of India's DST, as of November 28, 2021. In

coordination with Treasury, USTR will monitor implementation of the removal of India's DST as provided for under Pillar 1 and the transitional approach agreed to by India.

### Indonesia

On March 31, 2020, Indonesia issued an instrument to adopt a DST, namely, Government Regulation in Lieu of Law (Peraturan Pemerintah Pengganti Undang-Undang or PERPPU) 1-2020. On May 16, 2020, Government Regulation in Lieu of Law (PERPPU) 1- 2020 was adopted as Law of the Republic of Indonesia 2-2020.

On June 2, 2020, the USTR initiated a Section 301 investigation of Indonesia's DST. On the same day, the U.S. Trade Representative requested consultations with the Government of Indonesia (85 FR 34709).

On January 13, 2021, USTR published a status update regarding the investigation of Indonesia's DST. The status update summarized the DST and outlined USTR's preliminary concerns. The update noted that in order for Indonesia's DST to take effect, further implementing measures would be necessary and that Indonesia had not adopted these implementing measures at that time.

As of March 25, 2021, Indonesia had not implemented its DST. Accordingly, the U.S. Trade Representative determined that it was appropriate to terminate the Indonesia DST investigation. USTR continues to monitor the status of Indonesia's DST, and may, if appropriate, initiate a new Section 301 investigation.

### Italy

Italy adopted a DST, effective on January 1, 2020. Italy's DST applies to companies that generate €750 million (approximately \$850 million) or more in worldwide revenues and €5.5 million (approximately \$6.25 million) or more in revenues deriving from the provision of digital services in Italy. Italy's DST applies a three percent rate on the total amount of taxable revenues generated during the calendar year (86 FR 2477).

On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of Italy's DST. On the same day, the U.S. Trade Representative requested consultations with the Government of Italy (85 FR 34709).

Based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that Italy's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (86 FR 2477).

On June 2, 2021, the U.S. Trade Representative determined to take action in the form of additional duties on certain products of Italy and to immediately suspend those additional duties for up to 180 days (86 FR 30350).

On October 8, 2021, Italy joined the United States and 134 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting in reaching a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy. As part of Pillar 1, all parties agreed to remove existing DSTs and other relevant similar measures, and to coordinate the withdrawal of these taxes. On October 21, 2021, Treasury issued a joint statement with Italy and four other countries on a transitional approach to those countries' DSTs prior to entry into force of Pillar 1. Based on Italy's commitment to remove its DST pursuant to Pillar 1 and on its political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to

terminate the section 301 action taken in the investigation of Italy's DST. In coordination with Treasury, USTR is monitoring implementation of the removal of Italy's DST as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

### Spain

Spain adopted a DST on October 7, 2020. Spain's DST applies a three percent tax to revenues from certain digital advertising, digital intermediation services, and data transmission services. The DST applies to companies generating at least €750 million (approximately \$850 million) in global revenues and €3 million (approximately \$3.4 million) in revenues attributable to Spain (86 FR 6407).

On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of Spain's DST. On the same day, the U.S. Trade Representative requested consultations with the Government of Spain (85 FR 34709).

On October 8, 2021, Spain joined the United States and 134 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting in reaching a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy. As part of Pillar 1, all parties agreed to remove existing DSTs and other relevant similar measures, and to coordinate the withdrawal of these taxes. On October 21, 2021, Treasury issued a joint statement with Spain and four other countries on a transitional approach to those countries' DSTs prior to entry into force of Pillar 1. Based on Spain's to remove its DST pursuant to Pillar 1 and on its political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative has determined to terminate the section 301 action taken in the investigation of Spain's DST. In coordination with Treasury, USTR is monitoring implementation of the removal of Spain's DST as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

### Turkey

Turkey adopted a DST on December 7, 2019 and the DST entered into force as of March 1, 2020. The DST applies to companies that, during the previous calendar year, generated €750 million (approximately \$850 million) or more in worldwide revenues and TRY 20 million (approximately \$2.8 million) or more in revenues deriving from the provision of digital services in Turkey (86 FR 2480).

On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of Turkey's DST. On the same day, the U.S. Trade Representative requested consultations with the Government of Turkey (85 FR 34709).

Based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that Turkey's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (86 FR 2480).

On June 2, 2021, the U.S. Trade Representative determined to take action in the form of additional duties on certain products of Turkey and to immediately suspend those additional duties for up to 180 days (86 FR 30353).

On October 8, 2021, Turkey joined the United States and 134 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting in reaching a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy. As part of Pillar 1, all parties agreed to remove existing digital services taxes and other relevant similar measures, and

to coordinate the withdrawal of these taxes. On November 22, 2021, Treasury issued a joint statement with Turkey regarding a transitional approach to Turkey's Digital Service Tax prior to entry into force of Pillar 1. The joint statement reflects a political agreement that DST liabilities accrued during the transitional period will be creditable in defined circumstances against future taxes due under Pillar 1. Based on the commitment of Turkey to remove its Digital Service Tax pursuant to Pillar 1 and on Turkey's political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of Turkey's DST. In coordination with Treasury, USTR will monitor implementation of the removal of Turkey's DST as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

### The United Kingdom

The United Kingdom (UK) adopted a DST on July 22, 2020. The UK DST applies a two percent tax on the revenues of certain search engines, social medial platforms and online marketplaces. The UK DST applies only to companies with global digital services revenues exceeding £500 million (approximately \$641 million) and UK digital services revenues exceeding £25 million (approximately \$34.1 million). Companies became liable for this DST on April 1, 2020 (86 FR 6406).

On June 2, 2020, the U.S. Trade Representative initiated a Section 301 investigation of the UK's proposed DST, which was subsequently adopted. On the same day, the U.S. Trade Representative requested consultations with the Government of the United Kingdom (85 FR 34709).

On October 8, 2021, the UK joined the United States and 134 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting in reaching a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy. As part of Pillar 1, all parties agreed to remove existing DSTs and other relevant similar measures, and to coordinate the withdrawal of these taxes. On October 21, 2021, Treasury issued a joint statement with the UK and four other countries on a transitional approach to those countries' DSTs prior to entry into force of Pillar 1. Based on the UK's commitment to remove its DST pursuant to Pillar 1 and on its political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative has determined to terminate the section 301 action taken in the investigation of the UK's DST. In coordination with Treasury, USTR is monitoring implementation of the removal of the UK's DST as provided for under Pillar 1 and the transitional approach as provided in the joint statement.

## **4. Enforcement of U.S. WTO Rights in European Union Large Civil Aircraft Dispute**

On October 6, 2004, the United States requested WTO dispute settlement consultations with the EC (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 (LCA) domestic industry, on the basis that these subsidies appeared to be inconsistent with their obligations under the GATT 1994 and the WTO 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 LCA 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 objected to the request, referring 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 April 12 2019, USTR announced the initiation of a Section 301 investigation to enforce U.S. rights in the dispute. The notice of initiation 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, 2019.

USTR issued a second notice on July 5, 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 LCA domestic industry is approximately \$7.5 billion annually.

On October 9, 2019, the U.S. 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, the advice of the advisory committees, the Section 301 Committee, and the Trade Policy Staff Committee, U.S. 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 Member 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 percent 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. Pursuant to the Section 301 statute, the notice sought comments on 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. A periodic revision of the action was announced on February 14, 2020, and a notice published in the *Federal Register* on February 21, 2020 (85 FR 10204). The February notice also included a determination that the United States may take appropriate action upon any EU imposition of additional duties on U.S. products in connection with the EU LCA dispute or the U.S. LCA dispute brought by the EU.

The next review was announced June 26, 2020, and included a notice which sought comment on an additional list of products with a value of approximately \$3.1 billion being considered for additional duties (85 FR 38488, as amended by 85 FR 39661 on July 1, 2020). The revised action was announced August

12, 2020, and included the determination that the action may be revised upon any EU imposition of additional duties on U.S. products in connection with the EU LCA dispute or the U.S. LCA dispute brought by the EU (85 FR 50866).

On November 9, 2020, following a decision by the WTO arbitrator in the U.S. LCA dispute that Washington State tax rate reductions in a 2012 reference period caused \$4 billion per year in adverse effects, the EU announced that it would impose additional duties of 15 percent and 25 percent on goods of the United States, effective November 10, 2020. The Washington State measure was withdrawn in April 2020, and the EU had no legal basis to retaliate. Furthermore, in exercising its \$4 billion authorization, the EU relied on a benchmark reference period affected by the economic downturn caused by the COVID-19 pandemic, which enabled the EU to cover a greater volume of imports than if, like the United States, it had used data from a period when trade was not affected by the pandemic.

On December 31, 2020, in response to the EU's action, the United States announced certain revisions to the August 2020 action, including an adjustment to mirror the benchmark period used by the EU in exercising its authorization (86 FR 674 of January 6, 2021). Using the new benchmark period, coupled with appropriate adjustments, the December 31, 2020, revision remained consistent with the WTO arbitrator's award to the United States.

In February 2021, the U.S. Trade Representative together with the affected United States industry agreed that it was unnecessary at that time to revise the action in the Section 301 investigation. *See* 86 FR 9420.

In March 2021, the United States and the United Kingdom, and the United States and the EU, issued joint statements promoting a resolution of the disputes and announcing that each party would suspend their imposition of additional duties on products of the other for four months. In accord with the joint statements, the United States announced modification of the action to suspend additional duties on products of the United Kingdom (UK) and of EU Member states, effective March 4, 2021 and March 11, 2021, respectively. *See* 86 FR 13961 and 86 FR 14513.

On June 15 and June 17, 2021, the United States reached understandings on cooperative frameworks with the UK and the EU regarding the dispute. In accordance with the understandings, the U.S. Trade Representative determined to suspend the action being taken in the Section 301 investigation for five years, beginning July 4, 2021, with respect to tariffs on goods of the UK, and beginning July 11, 2021, with respect to tariffs on goods of EU Member states. 86 FR 36313. USTR will monitor implementation by the EU and UK of the framework understandings and their respective measures related to the matters covered in the LCA dispute, including whether the EU or UK provides financing to an LCA producer for the production or development of LCA that is not on market terms. If USTR considers that the implementation of the framework understandings or measures related to the WTO dispute are not satisfactory, USTR will take the any and all appropriate and feasible action under Section 301 to enforce U.S. WTO rights.

## **5. Vietnam's Acts, Policies, and Practices Related to the Import and Use of Illegal Timber**

On October 2, 2020, the U.S. Trade Representative initiated an investigation regarding whether Vietnam's acts, policies and practices related to Vietnam's import and use of illegally harvested or traded timber ("illegal timber") are unreasonable or discriminatory and burden or restrict United States commerce. On the same day, the United States requested consultations with Vietnam. The notice of initiation (85 FR 63639) explained that Vietnam relies on imports of timber harvested in other countries to supply the timber inputs needed for its wood products manufacturing sector, and evidence suggests that a significant portion

of that imported timber was illegally harvested or traded. Through the notice of initiation, USTR solicited written comments. USTR received 71 submissions in response.

USTR and the Section 301 Committee convened a virtual public hearing on December 28, 2020, during which 19 witnesses provided testimony and responded to questions. On January 8, 2021, the United States held consultations with the Government of Vietnam.

On October 1, 2021, the United States and Vietnam signed an agreement that addresses U.S. concerns in the timber investigation. *See* 86 FR 55681. The Agreement secures commitments that will help keep illegally harvested or traded timber out of the supply chain and protect the environment and natural resources. USTR will monitor Vietnam's implementation of the Agreement. If the U.S. Trade Representative determines that Vietnam is not satisfactorily implementing the agreement or associated measures, then the U.S. Trade Representative will consider further action under Section 301.

*For further discussion on this investigation, see Chapter III.G.1 Trade and the Environment Free Trade Agreements and Bilateral Activities.*

## **6. Vietnam's Acts, Policies, and Practices Related to Currency Valuation**

On October 2, 2020, the U.S. Trade Representative initiated an investigation regarding whether Vietnam's acts, policies, and practices related to the valuation of its currency are unreasonable or discriminatory and burden or restrict United States commerce. On the same day, the United States requested consultations with Vietnam. The notice of initiation (85 FR 63637) explained that the State Bank of Vietnam's management of its currency is closely tied to the U.S. dollar, and that available analysis indicated that Vietnam's currency had been undervalued for the past three years. The notice further explained that available evidence indicated that the Government of Vietnam, through the State Bank of Vietnam, actively intervened in the foreign exchange market which contributed to the dong's undervaluation in 2019. Through the notice of initiation, USTR solicited public comments. USTR received 66 submissions in response.

On December 23, 2020, the United States held consultations with the Government of Vietnam. On December 29, 2020, USTR and the Section 301 Committee held a virtual public hearing on the investigation. During the hearing, 21 witnesses testified and responded to questions.

On January 15, 2021, in consultation with the Department of the Treasury, based on the information obtained in the investigation, and taking account of public comments and advice of the Section 301 Committee and Advisory Committees, the U.S. Trade Representative determined that Vietnam's acts, policies, and practices related to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable and burden or restrict U.S. commerce, and thus actionable under Section 301 (86 FR 6732).

On July 23, 2021, based on an agreement reached between the Department of the Treasury and the State Bank of Vietnam regarding Vietnam's currency practices, the U.S. Trade Representative determined that no action under Section 301 in the currency investigation was warranted at that time because Vietnam's agreement with Treasury provided a satisfactory resolution of the matter subject to the investigation (86 FR 40675). USTR, in coordination with Treasury, will monitor Vietnam's implementation of its commitments under the Agreement and associated measures going forward. If the U.S. Trade Representative determines that Vietnam is not satisfactorily implementing the Agreement or associated measures, then the U.S. Trade Representative will consider further action under Section 301.

## 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 General Agreement on Tariffs and Trade (GATT) 1994—the so-called “escape clause”—and the World Trade Organization (WTO) Agreement on Safeguards.

Section 204 of the Trade Act of 1974 also 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.

Safeguard measures are limited to an initial period of no more than four years. However, pursuant to Section 204 of the Trade Act of 1974, the relevant domestic industry may file a petition to extend a safeguard measure, or the President may request an extension investigation. If such a petition or request is received, the USITC must investigate and determine, pursuant to Section 204, whether (1) the action continues to be necessary to prevent or remedy serious injury, and (2) there is evidence that the industry is making a positive adjustment to import competition. If the USITC reaches an affirmative determination on these two questions, then Section 203 of the Trade Act of 1974 authorizes the President to extend the safeguard measure. The effective period of any safeguard action, including any extensions of a safeguard action, may not, in the aggregate, exceed eight years.

### *Section 201 Investigation Regarding Fresh, Chilled, or Frozen Blueberries*

In 2020, the USITC instituted a new investigation under Section 201 regarding fresh, chilled, or frozen blueberries, based on a request from the U.S. Trade Representative. On February 11, 2021, the USITC determined that these products were not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat of serious injury, to the domestic industry producing an article like or directly competitive with the imported article.

### *Extension of the Safeguard Measure on Imports of Large Residential Washers*

Effective February 7, 2018, the President imposed a safeguard measure on imports of large residential washers, for three years and one day. After receiving a petition from representatives of the domestic industry to extend the safeguard measure, the USITC conducted an extension investigation and issued its determination on December 8, 2020. The USITC found that the safeguard measure continues to be necessary to prevent or remedy the serious injury to the domestic industry, and that there is evidence that

the domestic industry is making a positive adjustment to import competition. On January 14, 2021, the President issued a proclamation extending the safeguard measure for an additional two year period.

*Extension Review of the Safeguard Measure on Certain Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled into Other Products*

Effective February 7, 2018, the President imposed a safeguard measure on imports of certain crystalline silicon photovoltaic cells (CSPV), whether or not partially or fully assembled into other products (CSPV products). After receiving a petition from representatives of the domestic industry to extend the safeguard measure, the USITC conducted an extension investigation and issued its determination on December 8, 2021. The USITC found that the safeguard measure continues to be necessary to prevent or remedy the serious injury to the domestic industry, and that there is evidence that the domestic industry is making a positive adjustment to import competition. Upon receipt of the USITC's report, the President commenced a process to determine whether extension of the measure is warranted. If not extended, the safeguard measure will terminate on February 6, 2022.

## **D. WTO and FTA Enforcement**

### **Key Developments in 2021**

In 2021, the United States brought and prevailed in the first dispute settlement panel proceeding under the United States–Mexico–Canada Agreement (USMCA). In May 2021, the United States requested and established a USMCA panel to examine the USMCA consistency of Canada's administration of 14 of its dairy tariff-rate quotas (TRQs), including TRQs on milk, cream, skim milk powder, butter and cream powder, industrial cheeses, cheeses of all types, milk powders, concentrated or condensed milk, yogurt and buttermilk, powdered buttermilk, whey powder, products consisting of natural milk constituents, ice cream and ice cream mixes, and other dairy. The Panel agreed with the United States that Canada's allocation of dairy TRQs, specifically the set-aside of a percentage of each dairy TRQ exclusively for Canadian processors, is inconsistent with the USMCA.

On June 15 and June 17, 2021, the United States reached understandings on cooperative frameworks with the European Union (EU) and the United Kingdom (UK), respectively, in the WTO Aircraft disputes (DS316 and DS353). In accordance with the understandings, each side intends not to impose the WTO-authorized countermeasures for a period of five years starting from July 4, 2021.

In November 2021, the United States suspended its challenge to the EU's additional duties imposed on U.S. products in retaliation for U.S. duties on steel and aluminum products, in light of the U.S.–EU announcement of arrangements on steel and aluminum and the EU's announcement that it would suspend its additional duties. Ongoing WTO dispute settlement actions include panel proceedings against China, India, Russia, and Turkey challenging their additional duties imposed on U.S. products in retaliation for U.S. duties on steel and aluminum products; an appeal by China of a panel report rejecting China's challenge to the U.S. safeguard measure for solar products; compliance proceedings, initiated by China, to determine whether China has complied with the WTO's recommendations regarding its excessive levels of annual domestic support and its administration of grains TRQs; an appeal by the EU of the second compliance panel's finding that the EU failed to implement the WTO's recommendations to bring its WTO-inconsistent launch aid subsidies to Airbus into compliance with WTO rules; and an appeal by India of the Panel's findings concerning the U.S. challenge of four export subsidy schemes benefitting numerous Indian exporters.

The cases described below provide further detail about current U.S. involvement in WTO and FTA dispute settlement processes. Further information on disputes to which the United States is a party, and a list of U.S. submissions, are available on the [USTR website](#).

### **Free Trade Agreement Disputes Brought by the United States**

#### *USMCA: Canada – Allocation of Dairy Tariff-Rate Quotas*

On December 9, 2020, the United States requested USMCA Chapter 31 consultations with Canada regarding Canada’s administration of its dairy TRQs. These consultations concerned 14 TRQs on dairy products that Canada has the right to maintain under the USMCA, including milk, cream, skim milk powder, butter and cream powder, industrial cheeses, cheeses of all types, milk powders, concentrated or condensed milk, yogurt and buttermilk, powdered buttermilk, whey powder, products consisting of natural milk constituents, ice cream and ice cream mixes, and other dairy.

In notices to importers that Canada published in June and October 2020 and May 2021 for dairy TRQs, Canada set aside and limited access to a percentage of the quota for processors and for so-called “further processors.” By setting aside and limiting access to a percentage of each dairy TRQ exclusively for processors, the United States alleged that Canada has undermined the ability of American dairy farmers and producers to utilize the agreed-upon TRQs and sell a wide range of dairy products to Canadian consumers. The United States challenged Canada’s measures as inconsistent with Articles 3.A.2.4(b), 3.A.2.6(a), 3.A.2.11(b), 3.A.2.11(c), and 3.A.2.11(e) of the USMCA.

On December 21, 2020, Canada and the United States held consultations via videoconference, but the Parties failed to resolve the matter. On May 25, 2021, the United States requested and established a dispute settlement panel under the USMCA to review Canada’s dairy TRQ allocation measures. The Panel was composed on July 5, 2021. The Parties composed the Panel as follows: Mr. Elbio Rosselli, Chair; Ms. Julie Bédard and Mr. Mark C. Hansen, Members. During October 25-26, 2021 a panel hearing was held in Ottawa, Canada.

The final panel report was released to the parties on December 20, 2021, and to the public on January 4, 2022. The Panel agreed with the United States that Canada’s allocation of dairy TRQs, specifically the set-aside of a percentage of each dairy TRQ exclusively for Canadian processors, is inconsistent with Canada’s commitment in Article 3.A.2.11(b) of the USMCA not to “limit access to an allocation to processors.”

### **Free Trade Agreement Disputes Brought Against the United States**

#### *USMCA: United States – Safeguard Measure on Solar Products*

On December 22, 2020, Canada requested USMCA Chapter 31 consultations with the United States regarding implementation of a safeguard measure on certain crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) (CSPV products) that are imported into the United States. The measure imposes increased duties and TRQs on global imports of covered products. Canada challenged the inclusion of imports from Canada in the measure. On December 30, 2020, Mexico requested to join the consultations under USMCA Chapter 31 as a third party. Consultations were held on January 28, 2021, but the Parties failed to resolve the matter.

On June 18, 2021, Canada requested the establishment of a USMCA Chapter 31 dispute settlement panel. In its panel request and subsequent written submissions, Canada alleged that the President’s decision in 2018 not to exclude Canadian products from the safeguard measure was inconsistent with USMCA Articles 10.2.1, 10.2.2, 10.2.5(b), 10.3, and 2.4.2. Canada also alleged that section 312 of the USMCA

Implementation Act (19 U.S.C. § 4552), which provides the President with definitive authority to determine whether to exclude USMCA Parties from safeguard actions, is inconsistent with Article 10.3 of the USMCA.

The Panel was composed on August 3, 2021. The Parties composed the Panel as follows: Mr. Mario Matus Baeza, Chair; Ms. Jennifer Hillman and Mr. Donald McRae, Members.

As of December 2021, Panel proceedings were ongoing.

#### *USMCA: United States – Automotive Rules of Origin*

On August 20, 2021, Mexico requested consultations with the United States regarding the interpretation and application of certain rules of origin provisions for automobiles under the USMCA. On August 26, 2021, Canada notified its intent to join the consultations. The United States held consultations with Mexico on September 24, 2021.

### **World Trade Organization Disputes Brought by the United States**

In 2021, 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 2021 where the United States was a complainant (listed alphabetically by responding party, and then chronologically).

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

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

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

The United States and China held consultations on June 5 and June 6, 2007 and July 31, 2007. At the request of the United States, 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 Dispute Settlement Body (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 calls for China and the United States to engage in consultations in calendar year 2017 and, through this consultation process, to provide for further meaningful compensation to the United States. China and the United States initiated consultations in 2017; however, to date China has not agreed to provide further meaningful compensation, as it committed to do under the MOU.

#### *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, fluor spar, 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, fluor spar, 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, September 1, and September 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, including that the Panel correctly made recommendations for China to bring its measures into conformity with its WTO commitments.

The DSB adopted the Panel and Appellate Body reports on February 22, 2012. The United States, the EU, Mexico, and China agreed that China would have until December 31, 2012, to implement the WTO's recommendations.

At the conclusion of the reasonable period of time (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 request of the United States, 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<sup>®</sup> and MasterCard<sup>®</sup>), the “three-party” model (*e.g.*, American Express<sup>®</sup>) and other variations, 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 breaches:

- 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. In June 2020, four months after the entry into force of the China Economic and Trade Agreement, American Express became the first foreign supplier of electronic payment services to secure a license to operate in China's market. The United States continues to urge 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 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 from February 26 through February 28, 2013, and on 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.

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.

However, at present, China maintains export licensing requirements for these products. 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 – 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, April 1, and April 2, 2015. At the request of the United States, on April 22, 2015, the WTO 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 – Export Duties on Certain Raw Materials (DS508)*

On July 13 and 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 9, 2016. Consultations did not resolve the dispute.

At the request of the United States, 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 Support 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 request of the United States, 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 RPT for China to come into compliance with WTO rules would end March 31, 2020.

On July 16, 2020, the United States requested authorization to suspend the application to China of tariff concessions and other obligations at an estimated level of \$1.3 billion for 2020 pursuant to Article 22.2 of the Dispute Settlement Understanding (DSU). On July 27, 2020, China objected to the U.S. request, automatically referring the matter to arbitration. On August 5, 2020, China requested the establishment of a compliance panel pursuant to Article 21.5 of the DSU, and at its meeting on September 28, 2020, the DSB established a compliance panel.

*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 TRQs 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 TRQs for these commodities have under filled, even in years where market conditions would suggest demand for imports. China's administration of these TRQs inhibits the filling of the TRQs, 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 request of the United States, 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 would end June 29, 2021.

On July 15, 2021, the United States requested authorization to suspend the application to China of tariff concessions and other obligations pursuant to Article 22.2 of the DSU. China objected to the U.S. request, automatically referring the matter to arbitration. On July 15, 2021, China requested the establishment of a

compliance panel pursuant to Article 21.5 of the DSU, and at its meeting on August 30, 2021, the DSB established a compliance panel.

*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 detailed 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. It also claimed that China breaks WTO rules by imposing mandatory adverse contract terms that discriminate against and are less favorable for imported foreign technology. It said that 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 request of the United States, 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, revising certain of the technology licensing requirements cited in the U.S. complaint. Subsequently, the United States made requests that the Panel suspend its work to review these revisions and the Panel granted all such requests. After review, the United States did not reinitiate the proceedings and the Panel's authority lapsed on June 9, 2021.

*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 request of the United States, 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. As of December 2021, Panel proceedings were 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 Agreement on the Application of Sanitary and

Phytosanitary Measures (SPS Agreement), and that the ban is not based on science, a risk assessment, or relevant international standards.

Upon appeal, the Appellate Body affirmed the Panel's findings that the EU ban fails to satisfy the requirements of the SPS Agreement. The Appellate Body also found that, while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement. The Appellate Body concluded that 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 in an amount equal to the value of the estimated 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 further discussion on the U.S. suspension of concessions and the MOU, see Chapter II.B Section 301.*

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

Since the late 1990s, the EU has pursued policies that undermine the commercialization and trade of agricultural biotechnology products. After approving a number of agricultural biotechnology 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 biotechnology crops that had been approved by the EU prior to the adoption of the moratorium. These measures have caused a growing portion of U.S. agricultural exports to be excluded from EU markets and unfairly cast concerns about biotechnology products around the world, particularly in developing countries.

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

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

- The Panel found that the EU adopted a *de facto*, across-the-board moratorium on the final approval of biotechnological products, starting in 1999 up through the time the Panel was established in August 2003;
- The Panel found that the EU had presented no scientific or regulatory justification for the moratorium, and thus that the moratorium resulted in “undue delays” in violation of the EU’s obligations under the SPS Agreement;
- The Panel identified specific, WTO inconsistent “undue delays” with regard to 24 of the 27 pending product applications that were listed in the U.S. panel request;
- The Panel upheld the United States’ claims that, in light of positive safety assessments issued by the EU’s own scientists, the bans adopted by six EU Member States on products approved in the EU prior to the moratorium were not supported by scientific evidence, and were thus inconsistent with WTO rules.

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

On January 17, 2008, the United States submitted a request for authorization to suspend concessions and other obligations with respect to the EU under the covered agreements at an annual level equivalent to the

annual level of nullification or impairment of benefits accruing to the United States resulting from the EU's failure to bring measures concerning the approval and marketing of biotechnology products into compliance with the recommendations and rulings of the DSB. On February 6, 2008, the EU 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 continues monitoring EU developments and has been engaging 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 UK, 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 Agreement on Subsidies and Countervailing Measures (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 UK 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 November 17, 2010, addressed issues associated with the main subsidy to Airbus, launch aid, and the other subsidies challenged by the United States. The second hearing held December 9 through December 14, 2010, focused on the Panel's findings that the European subsidies caused serious prejudice to the interests of the United States in the form of lost sales and declining market share in the EU and other third country markets. On May 18, 2011, the Appellate Body issued its report. The Appellate Body affirmed the Panel's central findings that European government launch aid had been used to support the creation of every model of large civil aircraft produced by Airbus. The Appellate Body also confirmed that launch aid and other challenged subsidies to Airbus have directly resulted in Boeing losing sales involving purchases of Airbus aircraft by EasyJet, Air Berlin, Czech Airlines, Air Asia, Iberia, South African Airways, Thai Airways International, Singapore Airlines, Emirates Airlines, and Qantas, as well as lost market share, with Airbus gaining market share in the EU and in third country markets, including China and Korea, at the expense of Boeing. The Appellate Body also found that the Panel applied the wrong standard for evaluating whether subsidies are export subsidies, and that the Panel record did not have enough information to allow application of the correct standard.

On December 1, 2011, the EU provided a notification in which it claimed to have complied with the DSB recommendations and rulings. On December 9, 2011, the United States requested consultations regarding the notification and also requested authorization from the DSB to impose countermeasures. The United States and the EU held consultations on January 13, 2012. On December 22, 2011, the EU objected to the level of suspension of concessions requested by the United States, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. On January 19, 2012, the United States and the EU requested that the arbitration be suspended pending the conclusion of the compliance proceeding.

On March 30, 2012, in light of the parties' disagreement over whether the EU had complied with the DSB's recommendations and rulings, the United States requested that the DSB refer the matter to the original Panel pursuant to Article 21.5 of the DSU. The DSB did so at a meeting held on April 13, 2012. On April 25, 2012, the compliance Panel was composed with the members of the original Panel: Mr. Carlos Pérez del Castillo, Chair; Mr. John Adank and Mr. Thinus Jacobsz, Members.

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 October 14, 2019, the WTO accordingly authorized the United States to take countermeasures consistent with the award of the Arbitrator. The United States imposed tariffs on certain imports from the involved EU member states pursuant to Section 301 of the Trade Act.

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 continued 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.

On June 15 and June 17, 2021, the United States reached understandings on cooperative frameworks with the EU and the UK, respectively, on the parallel aircraft disputes (DS316 and DS353). In accordance with the understandings, each side intends not to impose the WTO-authorized countermeasures for a period of five years starting from July 4, 2021. Each side also intends to provide any financing to its large civil aircraft producer (LCA producer) for the production or development of large civil aircraft on market terms. Additionally, each side intends to provide any funding for research and development (R&D) for large civil aircraft to its LCA producer through an open and transparent process while making the results of fully government funded R&D widely available. A working group is also established under each framework to analyze and overcome any disagreements in the sector, including on any existing support measures. The working group will also collaborate on jointly analyzing and addressing non-market practices of third parties that may harm their respective large civil aircraft industries.

*For further discussion on the U.S. countermeasures, see Chapter II.B Section 301.*

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

On July 16, 2018, the United States requested consultations with the 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 request of the United States, 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.

In November 2021, the United States and EU announced arrangements on steel and aluminum cooperation, and the EU announced that it would suspend its additional duties. The United States requested that the Panel suspend its work. The EU informed the Panel that it did not object to that request, and the Panel granted it. The United States and the EU mutually agreed to resort to arbitration regarding the matter pending before the Panel in this dispute. Upon composition of the arbitrator, the arbitration is immediately and indefinitely suspended and the dispute before this Panel is terminated.

*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, 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 request of the United States, the WTO established a panel to examine the U.S. complaint on June 25, 2012. On February 18, 2014, the Director-General composed the Panel as follows: Mr. Stuart Harbinson, Chair; and Ms. Delilah Cabb and Mr. Didrik Tønseth, Members.

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: (1) are not based on international standards or a risk assessment that takes into account available scientific evidence; (2) arbitrarily discriminate against U.S. products because India blocks imports while not similarly blocking domestic products; (3) constitute a disguised restriction on international trade; (4) 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; (5) 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, (6) 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: (1) are not based on international standards or a risk assessment that takes into account available scientific evidence; (2) arbitrarily discriminate against U.S. products because India blocks imports while not similarly blocking domestic products; (3) 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, (4) 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. As of December 2021, the arbitration proceedings were 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. As of December 2021, the compliance Panel proceeds were ongoing.

In 2018, 2019, 2020, and 2021, 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 Tejada, 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 NSM 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 NSM 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 SCM Agreement 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 SCM Agreement. 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 request of the United States, 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 Montaña Huerta, Members.

As of December 2021, Panel proceedings were 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 on April 13 and 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. The United States paused the arbitration on August 20, 2018, to provide more time for the parties to discuss a resolution to the dispute. Indonesia notified the DSB on December 18, 2020, that a new law that aims to address one of the inconsistent measures has entered into force on November 2, 2020. With respect to the other inconsistent measures, Indonesia has notified the DSB that it has made “significant adjustments” to its relevant regulations that include the removal of some of the measures. As of December 31, 2021, Indonesia continued to assert to the DSB that it has removed or adjusted the measures to comply with the DSB rulings and recommendations. The United States continues to monitor the situation closely.

#### *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 request of the United States, 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. As of December 2021, Panel proceedings were 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.

As of December 2021, Panel proceedings were 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 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 (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 Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement) and the Agreement Establishing the WTO. Consultations were held on January 13, 2000, and a panel was established on March 20, 2000. In May 2000, the Director-General composed the Panel as follows: Mr. Harsha V. Singh, Chair; and Mr. Yanyong Phuangrath and Ms. Lidia di Vico, Members. On February 28, 2001, the Panel circulated its report, in which it rejected most of Japan's claims, but found that, *inter alia*, particular aspects of the antidumping duty calculation, as well as one aspect of the U.S. antidumping duty law, were inconsistent with the 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) (CDSOA), 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.

The United States has informed WTO Members that it has withdrawn the challenged measure and come into compliance in this dispute. It appears that the EU in 2021 continued imposing countermeasures at a rate of 0.1 percent.

#### *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, on August 21, 2003, the Director-General composed the Panel 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 engaged in 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. A 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:

#### Findings against the EU

- The EU alleged that DoD provided Boeing with funding and other resources worth \$2.9 billion to conduct research that assisted Boeing’s development of large civil aircraft. The Panel rejected most of the EU claims for procedural reasons. It found that the remaining claims were worth only \$41 million, that most of those programs were not subsidies. The Panel subsequently found that the DoD funding found to constitute subsidies did not cause adverse effects to Airbus.
- The Panel found that NASA R&D programs were subsidies, but only conferred benefits of approximately \$158 million. It found that these subsidies did not cause adverse effects to Airbus.
- The EU alleged that the Federal Aviation Administration (FAA) provided funding and resources worth \$28 million to Boeing. The Panel found that the FAA program in question was a subsidy, and agreed that it was worth \$28 million. However, it found that these subsidies did not cause adverse effects to Airbus.
- The EU alleged that Boeing received \$51 million in tax benefits from 2007 through 2014 under the FSC/ETI program that Congress discontinued in 2006. The Panel found that there was no evidence that Boeing benefitted this program in the 2007 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.

### Findings against the United States

- The EU argued that Washington State’s adjustment to its Business and Occupation (“B&O”) tax applicable to aerospace manufacturing foregoes revenue that could otherwise be collected from Boeing, making it a subsidy for WTO purposes. The Panel found that this program confers a subsidy on Boeing, worth an average value of \$100-\$110 million per year during the period of review. The Panel further found that these subsidies cause adverse effects, but only with respect to certain sales of the Airbus A320 aircraft.

On June 29, 2017, the EU filed a notice of appeal on certain findings, and the United States filed a notice of other appeal on August 10, 2017. The Division assigned to hear the appeal 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 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. On October 13, 2020, the arbitrator issued its decision with respect to the adverse effects caused by the Washington State tax rate reduction during an historical 2012 reference period. The arbitrator determined the level of countermeasures commensurate with the degree and nature of the adverse effects determined to exist is approximately \$3.99 billion annually. On October 26, 2020, the WTO granted the EU authorization to take countermeasures consistent with the arbitrator’s decision. Because the Washington State tax rate reduction was repealed effective April 1, 2020, the EU has no legal basis to maintain countermeasures on U.S. goods.

On June 15 and June 17, 2021, the United States reached understandings on cooperative frameworks with the EU and the UK, respectively, on the parallel aircraft disputes (DS316 and DS353). In accordance with the understandings, each side intends not to impose the WTO-authorized countermeasures for a period of five years starting from July 4, 2021. Each side also intends to provide any financing to its large civil aircraft producer (LCA producer) for the production or development of large civil aircraft on market terms. Additionally, each side intends to provide any funding for research and development (R&D) for large civil aircraft to its LCA producer through an open and transparent process while making the results of fully government funded R&D widely available. A working group was also established under each framework to analyze and overcome any disagreements in the sector, including on any existing support measures. The working group will collaborate on jointly analyzing and addressing non-market practices of third parties that may harm their respective large civil aircraft industries.

*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. Commerce’s countervailing duty (CVD) determinations and the U.S. International Trade Commission’s (USITC) 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 injury determinations in five-year reviews, but found that the U.S. statute governing cumulation in original injury 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 CVD investigations. Applying this reasoning, the Panel also found that the USITC’s injury determination in the India Hot-Rolled Steel CVD investigation 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.

Regarding injury, 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 CVD 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 CVD proceeding to comply with the findings of the Appellate Body. On March 18, 2016, Commerce issued its preliminary determination memos in the Section 129 proceedings, and on April 14, 2016, 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 CVD determination and injury determination into compliance. The United States prevailed on eight sets of claims, including with respect to Commerce'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 has sought to confer 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 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 Chair.

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 SCM 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. As of December 2021, the arbitration proceedings were ongoing.

*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 Antidumping 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 Antidumping 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 Antidumping 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 Antidumping 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 Antidumping 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 Antidumping 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 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 selvage; 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 Antidumping Agreement; and Article VI:2 of the GATT 1994. Specifically, China challenged 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 challenged 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 Antidumping 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 Antidumping 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 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 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. On February 6, 2020, Korea and the United States reached an understanding regarding procedures under Articles 21 and 22 of the DSU, under which each party agreed it would accept a report by the compliance panel without appeal.

#### *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 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 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 that there was “ongoing conduct” with respect to Commerce's treatment of subsidies that Canadian respondents refused to disclose in response to Commerce questionnaires, but which Commerce subsequently discovered during verification in the course of the countervailing duty investigation. The Panel report also found that such treatment was inconsistent with Article 12.7 of the SCM Agreement. 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 alleged “ongoing conduct” and 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. A hearing was held in Geneva on November 4 and November 5, 2019, and an appellate report was issued on February 6, 2020. The document contains a majority view upholding the findings of the Panel and also a separate opinion that calls into question the reasoning and interpretative analysis of the appellate majority concerning “ongoing conduct.”

The DSB considered the appellate document and panel report at its meeting on March 5, 2020. The United States noted in its DSB statement that there were serious procedural and substantive concerns with the appellate document, and objected to the adoption of the document as an Appellate Body Report. The United States explained that the document cannot be an Appellate Body report because the Chinese national who served on the appeal was not a valid member of the Appellate Body given that the individual is affiliated

with the Government of China, in breach of Article 17.3 of the DSU. The concern related to the individual's service was further compounded because the appeal directly implicated the interests of the Government of China. The United States also reiterated its concerns of ex-Appellate Body members' continuation of service without authorization by the DSB, and the failure to adhere to the deadline in Article 17.5 of the DSU. Accordingly, the United States did not join in a consensus to adopt the document and report that were before the DSB. The United States explained that because there was no valid Appellate Body report in this dispute, the document and report could only be adopted by positive consensus. Because there was no consensus on adoption, the DSB did not validly adopt any document and report in this dispute, and therefore there was no valid recommendation of the DSB with which to bring a measure into conformity with a covered agreement.

On June 18, 2020, Canada requested authorization to suspend concessions and other obligations pursuant to Article 22.2 of the DSU. On June 26, 2020, the United States objected to Canada's request, referring the matter to arbitration pursuant to Article 22.6 of the DSU. On August 6, 2020, the WTO notified the parties that the arbitration would be carried out by the panelists who served during the panel proceeding: Mr. Paul O'Connor, Chair; and Mr. David Evans and Mr. Colin McCarthy. As of December 2021, the arbitration proceedings were ongoing.

#### *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 – 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 Antidumping 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 CVD measures imposed by the United States pursuant to four final CVD determinations issued by Commerce pertaining to certain pipe and tubes products. Turkey alleges inconsistencies with Articles 1.1(a)(1), 1.1(b), 2.1(c), 2.4, 10, 12.7, 14(d), 15.3, 19.4, and 32.1 of the SCM Agreement; and Article VI:3 of the GATT 1994.

Turkey challenges the application of measures in four final CVD 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 USITC’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 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 USITC to assess cumulatively the effects of imports not subject to CVD investigations with the effects of imports subject to CVD 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 had been 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 CVD 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. As of December 2021, Panel proceedings were ongoing.

The Panel circulated its report on August 24, 2020. The Panel found that Commerce’s determinations regarding benchmarks for stumpage, log export permitting processes, and non-stumpage programs were inconsistent with the SCM Agreement. The Panel effectively applied the WTO Appellate Body’s flawed test for using out-of-country benchmarks in its analysis of benchmarks from within Canada that Commerce used to measure the benefit of subsidies. The Panel also applied a heightened level of scrutiny in its review of Commerce’s determination, in essence putting itself in the place of the investigating authority, contrary to the terms of the SCM Agreement.

On September 28, 2020, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

*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 Antidumping 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. Maria 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 Antidumping 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 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 had been 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 Antidumping 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 anti-dumping 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 Antidumping 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 Director-General composed the

panel as follows: Mr. José Alfredo Graça Lima, Chair; and Mr. Shahid Bashir and Mr. Greg Weppner, Members. The Panel met with the parties on May 8 and May 9, 2019, and August 6 and August 7, 2019.

In 2020 and continuing in 2021, the United States and Vietnam have on several occasions jointly informed the panel that they remain engaged in discussions with respect to the resolution of this dispute and requested that the panel postpone circulation of the final report. The Panel has accepted these requests.

*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 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.

The Panel circulated its report on January 21, 2021. The Panel found that Commerce acted inconsistently with the Antidumping Agreement or SCM Agreement in either resorting to facts available or selecting the replacement facts in the eight instances challenged by Korea. With respect to the “as such” claim against an alleged unwritten measure, the panel found that Korea failed to establish that such an unwritten rule even existed. This obviated the panel’s need to evaluate whether such a rule (if it did exist) would breach the Antidumping Agreement or SCM Agreement.

On March 19, 2021, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

*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.

At China’s request, the WTO established a panel on January 28, 2019. On June 3, 2019 the Panel was composed by the Director-General. 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.

The Panel circulated its report on September 15, 2020. The Panel concluded that the tariff measures at issue are inconsistent with Article I:1 of the GATT 1994 (MFN), because they fail to provide treatment for Chinese products that is no less favorable than that granted to like products originating from other WTO Members, and with Articles II:1(a) and (b) of the GATT 1994, because the additional duties are in excess of the bound rates found in the U.S. Schedule.

On October 27, 2020, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

*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. As of December 2021, Panel proceedings were 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 CSPV products. 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. As of December 2021, Panel proceedings were 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. As of December 2021, Panel proceedings were 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.

In November 2021, the United States and the EU announced arrangements on steel and aluminum, including U.S. TRQs for EU steel and aluminum products free of duties under Section 232. The EU requested that the Panel suspend its work. The United States informed the Panel that it did not object to that request, and the Panel granted it. The United States and the EU mutually agreed to resort to arbitration regarding the matter pending before the Panel in this dispute. Upon composition of the arbitrator, the arbitration was immediately and indefinitely suspended and the dispute before the Panel was terminated.

*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. As of December 2021, Panel proceedings were 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. As of December 2021, Panel proceedings were 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. As of December 2021, Panel proceedings were 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 CSPV products. 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.

The Panel circulated its final report on September 2, 2021. The Panel rejected all of China's claims against the U.S. safeguard measure.

On September 16, 2021, China notified the DSB of its decision to appeal certain issues of law covered in the panel report.

*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 alleged 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. As of December 2021, Panel proceedings were 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 alleged that the tariff measures are inconsistent with U.S. 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 alleged 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 SCM Agreement 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. On October 18, 2019, the WTO Director-General composed the Panel as follows: Mr. Daniel Moulis, Chair; and Mr. Martin Garcia and Ms. Charis Tan, Members.

On November 19, 2021, the Panel circulated its report. The Panel found that the United States acted inconsistently with the SCM Agreement and GATT 1994 in calculating the final subsidy rate of one respondent, and in relying upon a provision of the Tariff Act of 1930 to attribute benefits to downstream agricultural processors. The Panel also found that certain factual findings related to Commerce's specificity determination were inconsistent with the SCM Agreement. The Panel rejected the EU's other claims concerning specificity and rejected all of the EU's claims concerning the USITC's injury determination. On December 20, 2021, the DSB adopted the Panel report.

### *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 alleged 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.

### *United States – Origin Marking Requirement (DS597)*

On October 30, 2020, Hong Kong, China, requested consultations concerning certain measures affecting marks of origin with respect to imported goods produced in Hong Kong, China. Hong Kong, China, alleged that the measures are inconsistent with Articles I:1, IX:1, and X:3(a) of the GATT 1994, Articles 2(c), 2(d), and 2(e) of the Agreement on Rules of Origin, and Article 2.1 of the Agreement on Technical Barriers to Trade. The United States and Hong Kong, China, held consultations on November 24, 2020. At the request of Hong Kong, China, the WTO established a panel on February 22, 2021. On April 29, 2021, the Director-General composed the Panel as follows: Ms. Beatriz Leycegui Gardoqui, Chair; and Mr. Johannes Human and Mr. Alexander Hugh McPhail, Members. As of December 2021, Panel proceedings were ongoing.

## **E. Other Activities**

### **1. Generalized System of Preferences**

#### **History and Purposes**

The U.S. Generalized System of Preferences (GSP) program was authorized by the Trade Act of 1974 (19 U.S.C. §§ 2461 *et seq.*) initially for a 10-year period, beginning on January 1, 1976. Congress reauthorized the program 14 times subsequently, most recently in March 2018. That authorization lapsed on December 31, 2020.

The GSP program was a non-reciprocal trade preference program that allows eligible exports from designated developing countries to enter the United States duty free. It 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 December 31, 2020, there were 119 designated GSP beneficiary developing countries (BDCs) and territories. Forty-four countries and territories were designated least-developed beneficiary developing countries (LDBDCs) under the GSP program and, as such, were eligible for a broader range of duty-free benefits.

### **Enforcement of Generalized System of Preferences Eligibility Criteria**

In preparation for Congressional reauthorization of GSP, during 2021 the Office of the U.S. Trade Representative (USTR) and the Trade Policy Staff Committee (TPSC) Subcommittee on GSP continued to monitor beneficiary countries' compliance with the 15 GSP eligibility criteria established by Congress. These criteria include, but are not limited to, taking steps to respect internationally recognized worker rights, providing the United States with equitable and reasonable market access, reducing trade-distorting investment practices, providing adequate and effective protection of intellectual property (IP) rights to U.S. rights holders, and enforcing arbitral awards in favor of U.S. citizens or corporations.

#### *Engagement on Outstanding Country Practice Reviews*

As a result of the lapse of GSP's authorization, USTR did not open or close any country practice reviews or hold public hearings on existing reviews in 2021.

However, USTR and the TPSC Subcommittee on GSP continued to engage with foreign governments and stakeholders on existing country eligibility reviews to monitor countries' compliance with the GSP eligibility criteria. As of December 31, 2021, there were seven such reviews pending, including reviews of Indonesia and South Africa regarding IP protection and IP enforcement; a review of Ecuador regarding arbitral awards, and reviews of Azerbaijan, Kazakhstan, Zimbabwe, and Eritrea regarding worker rights.

#### *Engagement with other Generalized System of Preferences Beneficiary Countries*

USTR emphasized to GSP beneficiary countries not under review the importance of complying with GSP eligibility criteria during Trade and Investment Framework Agreement and other bilateral meetings, including with Afghanistan, Cambodia, Ecuador, Fiji, the Kyrgyz Republic, Moldova, Tunisia, and Uzbekistan.

USTR also conducted webinars with government and private sector representatives from Algeria, Azerbaijan, and the Kyrgyz Republic to help them improve utilization of the GSP program once reauthorized.

### **Eligible Products**

Prior to the expiration of GSP's authorization, approximately 3,500 non-import sensitive products—as defined at the Harmonized Tariff Schedule 8-digit level—were eligible for duty-free treatment under the GSP program, with approximately 1,500 additional products reserved for eligibility for goods from LDBDCs only. The list of GSP-eligible products from all beneficiaries included: 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 included 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 precluded certain import-sensitive articles from receiving

GSP treatment, including textiles and apparel, watches, most footwear, certain glassware, and certain gloves and leather products.

As a result of the lapse of GSP's authorization, USTR did not carry out an annual product review to consider the addition or removal of products or waivers to competitive need limitations.

### **Value of Trade Entering the United States under the U.S. Generalized System of Preferences Program**

Although GSP authorization lapsed on December 31, 2020, this section provides the value of goods entering the United States that importers claimed under GSP in 2021 in anticipation of retroactive authorization, consistent with past precedent.

U.S. imports claimed under the U.S. GSP program were \$18.7 billion in 2021, up 10.4 percent from 2020 (\$1.8 billion) and down 12 percent from 2019 (\$2.4 billion).

During 2021, imports under GSP accounted for less than 0.7 percent of all U.S. imports of goods. Imports from BDCs and LDBDCs coming in under GSP accounted for 9.2 percent of total imports from those countries during the same period. GSP imports from LDBDCs, rose from \$2.0 billion to \$2.7 billion, or by 33.6 percent, and accounted for 14.5 percent of GSP imports.

Top U.S. imports claimed under the GSP program during 2021 were travel and sports bags, rubber gloves, gold necklaces, rubber or plastic mattresses, and precious metal jewelry.

The five GSP beneficiaries with the largest volume of GSP products claimed in 2021 were, in order: Indonesia, Thailand, Cambodia, Brazil, and the Philippines. The five LDBDC GSP beneficiaries with the largest volume of GSP products claimed were: Cambodia, Burma, Nepal, Malawi, and Ethiopia.

## **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 2021, 39 sub-Saharan African countries were eligible for AGOA benefits. As a result of the 2021 annual AGOA eligibility review, 36 sub-Saharan African countries are eligible for AGOA benefits in 2022, following the termination of AGOA benefits for the Federal Democratic Republic of Ethiopia, the Republic of Guinea, and the Republic of Mali, which took effect on January 1, 2022.

### **The Virtual African Growth and Opportunity Act Ministerial Meeting**

In October 2021, the United States convened the two-day Virtual AGOA Ministerial Meeting with African counterparts, which took place in lieu of the annual United States-Sub-Saharan Africa Trade and Economic Cooperation Forum (AGOA Forum) due to the COVID-19 pandemic. The Ministerial meeting's theme was "Building Back a Better U.S.-Africa Trade and Investment Relationship."

The meeting provided a valuable platform for discussing strengthened economic cooperation between the United States and the sub-Saharan African countries that receive enhanced U.S. market access under the AGOA program. USTR shared perspectives on core issues impacting U.S.-African trade ties, as well as joint efforts to combat the COVID-19 pandemic and other multilateral issues. USTR also outlined the

Administration's worker-centered trade policy and conveyed U.S. interest in working with partners on the continent to catalyze sustainable growth that maximizes benefits for workers, especially women, youth, and underserved communities. Twenty-two African ministers of trade, the U.S. Trade Representative, the Secretary of State, the Secretary of Labor, and the U.S. Agency for International Development Administrator, as well as senior level representation from numerous U.S. Government departments and agencies and leading Members of Congress participated. USTR, working with the Departments of State and Commerce, also supported side events with civil society and the private sector that took place prior to the Virtual AGOA Ministerial Meeting. (*For further information, see Chapter III.H.2 Trade and Labor Preference Programs.*)

### **The African Growth and Opportunity Act 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 the Office of the U.S. Trade Representative (USTR), that examines whether each country already eligible for AGOA benefits 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) the elimination of barriers to U.S. trade and investment; (4) poverty-reduction policies; (5) a system to combat corruption and bribery; and, (6) 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.

The annual review conducted in 2021 resulted in the termination of AGOA eligibility for Ethiopia, Guinea, and Mali, which took effect on January 1, 2022. The President made this decision based on the unconstitutional change in governments in both Guinea and Mali, and for the gross violations of internationally recognized human rights being perpetrated amid the widening conflict in northern Ethiopia.

*For further discussion on the AGOA Program and related activities, see Chapter I.B.6 Sub-Saharan Africa.*

### **Value of Trade Entering the United States under the African Growth and Opportunity Act**

U.S. imports claimed under the AGOA program (including under the U.S. GSP program) increased to \$6.7 billion in 2021, compared to \$4.2 billion in 2020, in part due to an increase in imports of oil (up 165.9 percent) to \$1.9 billion in 2021, compared to \$707.3 million in 2020. AGOA non-oil trade increased by 40.5 percent to \$4.8 billion in 2021, compared to \$3.4 billion in 2020.

There was a 167.1 percent increase in minerals and metals imports under AGOA to \$897.2 million in 2021 from \$335.9 million in 2020; a 45.7 percent increase in transportation equipment imports under AGOA to \$948.7 million in 2021 from \$651.0 million in 2020; a 21.7 percent increase in chemical and related products imports under AGOA to \$404.1 million in 2021 from \$332.1 million in 2020; a 16.0 percent increase in textiles and apparel imports under AGOA to \$1.4 billion in 2021 compared to \$1.2 billion in 2020; and a 14.0 percent increase in agricultural products imports under AGOA to \$715.1 million in 2021 from \$627.0 million in 2020.

Top U.S. imports under the AGOA program in 2021 were mineral fuels, motor vehicles and parts, woven apparel, knit apparel, ferroalloys, and macadamia nuts.

The top five AGOA users in 2021 were, in order: South Africa, Nigeria, Kenya, Ghana, and Angola.

### **3. 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 of 1994, and the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. § 2242), the Office of the U.S. Trade Representative (USTR) is required to identify “those foreign countries that deny adequate and effective protection of intellectual property rights, or deny fair and equitable market access to United States persons that rely on intellectual property protection.” Countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as “Priority Foreign Countries” (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 intellectual property (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 are the focus of increased bilateral attention concerning the specific problem areas. USTR develops an action plan for each foreign country identified for placement on the PWL and that has remained on the PWL for at least one year.

Additionally, Section 306 of the Trade Act of 1974 requires USTR to monitor a trading partner’s compliance with measures that are the basis for resolving an investigation under Section 301. USTR may take trade action if a country fails to implement such measures satisfactorily.

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

#### **2021 Special 301 Review Results**

On April 30, 2021, USTR announced the results of the 2021 Special 301 Review. The 2021 Special 301 Report was the result of stakeholder input and interagency consultation.

USTR requested written submissions from the public through a [Federal Register notice](#) published on December 15, 2020. Due to the COVID-19 pandemic, USTR fostered public participation via written submissions rather than an in-person hearing with the interagency Special 301 Subcommittee of the Trade Policy Staff Committee (TPSC) sending written questions on February 22, 2021, about issues relevant to the review to those that submitted written comments, including to representatives of foreign governments, industry, and non-governmental organizations. The *Federal Register* notice drew submissions from 50 non-government stakeholders and 22 foreign governments. USTR posted online the submissions received as well as the written questions from the TPSC and the written responses at [www.regulations.gov](http://www.regulations.gov), docket number [USTR-2020-0041](#).

For more than 30 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 its trading partners. During this period, there has been significant progress in a variety of countries, including in Australia, Costa Rica, Israel, Italy, Japan, Jamaica, Korea, the Philippines, Spain, Taiwan, and Uruguay.

Considerable concerns still remain. In 2021, 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 Special 301 Report, and that were filed by the deadlines provided in the notice. Following extensive research and analysis, USTR listed 9 countries on the PWL and 23 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 2021 listings were as follows:

**Priority Watch List:** Argentina, Chile, China, India, Indonesia, Russia, Saudi Arabia, Ukraine, and Venezuela.

**Watch List:** Algeria, Barbados, Bolivia, Brazil, Canada, Colombia, Dominican Republic, Ecuador, Egypt, Guatemala, Kuwait, Lebanon, Mexico, Pakistan, Paraguay, Peru, Romania, Thailand, Trinidad and Tobago, Turkey, Turkmenistan, Uzbekistan, and Vietnam.

When appropriate, USTR may conduct an Out-of-Cycle Review (OCR) to encourage progress on IP issues of concern. OCRs provide an opportunity to address and remedy such issues through heightened engagement with trading partners and other stakeholders. Successful resolution of specific IP issues of concern can lead to a positive change in a trading partner's Special 301 status outside of the typical period for the annual review.

USTR also conducts a review focused on prominent and illustrative examples of online and physical markets that reportedly engage in or facilitate substantial piracy or counterfeiting. USTR started identifying notorious markets in the Special 301 Report in 2006. In 2010, USTR began publishing the Notorious Markets List (NML) separately from the Special 301 Report 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; while 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 NML also includes an "issue focus" that highlights an issue related to the facilitation of substantial trademark counterfeiting or copyright piracy. As announced in the *Federal Register* notice published on August 30, 2021, the issue focus for the 2021 NML will examine the adverse impact of counterfeiting on works involved with the manufacture of counterfeit goods.

The Special 301 Review and NML serve a critical function by identifying opportunities and challenges in foreign markets related to adequate and effective IP protection and enforcement facing U.S. innovative and creative industries, which are key industries for job creation and economic development. The Special 301 Report and NML inform the public and U.S. trading partners and serve as a positive catalyst for change. USTR remains committed to meaningful and sustained engagement with U.S. trading partners, with the

goal of resolving these challenges. Information related to Special 301 (including public hearing transcripts and videos), the NML, and USTR's overall IP efforts can be found [online](#).

#### **4. Section 1377 Review of Telecommunications Agreements**

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the Office of the U.S. Trade Representative (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 2021 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.

#### **5. 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. The USITC also is authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if the complainant shows that there is reason to believe there has been a violation of Section 337 and shows that it will suffer irreparable harm absent issuance of a temporary 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. The Presidential review, set out in Section 337(j)(1)(B), Section 337(j)(2), and Section 337(j)(4) of the Tariff Act of 1930, has been delegated to the United States Trade Representative (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 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 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 USTR notifies the USITC. If 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 2021, the USITC instituted 52 new Section 337 investigations and commenced 21 ancillary proceedings. The USITC also issued affirmative determinations and remedial orders in 12 investigations in calendar year 2021. The USTR did not take any action in those 12 investigations:

*Certain Foldable Reusable Drinking Straws and Components and Accessories Thereof*, 337-TA-1183;

*Certain Lithium Ion Batteries, Battery Cells, Battery Modules, Battery Packs, Components Thereof, and Processes Therefor*, 337-TA-1159;

*Certain Rolled-Edge Rigid Plastic Food Trays*, 337-TA-1203;

*Certain Shaker Screens for Drilling Fluids, Components Thereof, and Related Marketing Materials*, 337-TA-1184;

*Certain High-Density Fiber Optic Equipment and Components Thereof*, 337-TA-1194;

*Certain Tobacco Heating Articles and Components Thereof*, 337-TA-1199;

*Certain Balanced Armature Devices, Products Containing Same, and Components Thereof*, 337-TA-1186;

*Certain Laparoscopic Surgical Staplers, Reload Cartridges, and Components Thereof*, 337-TA-1167;

*Certain Electronic Devices, Including Streaming Players, Televisions, Set Top Boxes, Remote Controllers, and Components Thereof*, 337-TA-1200;

*Certain Chemical Mechanical Planarization Slurries and Components Thereof*, 337-TA-1204;

*Certain Percussive Massage Devices*, 337-TA-1206; and

*Certain Light-Emitting Diode Products, Fixtures, and Components Thereof*, 337-TA-1213.

All but three determinations and orders became final in 2021 after Presidential review. Presidential reviews of the last three investigations, *Chemical Mechanical Slurries*, *Percussive Massagers*, and *LEDs*, were completed in early 2022.

## **6. Other Monitoring and Enforcement Activities**

### **Subsidies Enforcement**

The World Trade Organization (WTO) Agreement on Subsidies and Countervailing Measures (SCM Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the SCM

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 SCM 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 SCM 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 the Office of the U.S. Trade Representative (USTR) and the U.S. Department of Commerce (Commerce) in enforcing U.S. rights in the WTO under the SCM 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 SCM 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 SCM 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 SCM Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During 2021, USTR and E&C addressed numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continued 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 U.S. embassies where E&C are not present also handled such inquiries.

The SEO's electronic subsidies database continued to fulfill the goal of providing the U.S. trading community with a centralized location to obtain information about the remedies available under the SCM Agreement and much of the information that is needed to develop a CVD case or a WTO subsidies complaint. This database is accessible to the public through [the SEO website](#). The website 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 SCM 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.

USTR and E&C play an active coordinating role in preparing the U.S. submissions in CVD investigations. In particular, USTR ensures that questionnaires issued to the United States Government are timely and accurately completed by the appropriate federal and state agencies. In addition, USTR ensures that written submissions effectively advocate for affected U.S. companies and are consistent with U.S. positions concerning the WTO Agreements. USTR also leads in evaluating whether, in conducting these investigations, other Members' practices or policies could be WTO-inconsistent.

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 the [E&C website](#). The stationing of E&C officers to certain overseas locations and close contacts with U.S. Government officers stationed in U.S. 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 2021, over 50 trade remedy actions involving exports from the United States were closely monitored, notable examples of which include: (1) (AD) Australia's investigation of kraft paperboard; Brazil's investigation of caustic soda; China's separate investigations of polyphenylene ether, glycol ethers, and polyvinyl chloride; India's separate investigations of low density polyethylene and soda ash; and, Mexico's investigation of triethanolamines; (2) (CVD) China's separate investigation of glycol ethers, polyphenylene ether and polyvinyl chloride; and, (3) (Safeguards) the European Union's expiry review of its measure on certain steel products; the Gulf Cooperation Council's investigation of certain steel products; and, the United Kingdom's transitional review of the European Union's measure on 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](#).

## **7. 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 1979, the Trade and Tariff

Act of 1984, the Trade and Competitiveness 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 the United States–Mexico–Canada Agreement.

The United States initiated 27 antidumping investigations in 2021 and imposed 30 antidumping orders.

## **8. Countervailing Duty Actions**

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930, as amended by subsequent legislation including the Uruguay Round Agreements Act. As with the antidumping law, the U.S. 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. If the USITC's final injury determination is negative, the investigation is terminated.

Upon request of an interested party, Commerce conducts annual reviews of countervailing subsidy 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.

CVD 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 the United States–Mexico–Canada Agreement.

The United States initiated 11 CVD investigations and imposed 30 new CVD orders in 2021.

# III. OTHER TRADE ACTIVITIES

## A. Initiatives to Advance an Inclusive and Equitable Worker-Centered Trade Policy

### 1. Overview of the Initiatives

A core principle of USTR's 2021 trade activities featured exploring how trade policy could contribute to and advance the United States' economic competitiveness, resiliency, and equity. During 2021, USTR began implementing Presidential initiatives including: Executive Order (EO) 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*; EO 14020 that established and named USTR as a member of the White House *Gender Policy Council*; and the Presidential Memoranda on *Tribal Consultation and Strengthening the Nation-to-Nation Relationship* and on *Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons around the World*.<sup>24</sup>

The agency also established internal equity teams and developed working definitions of “equity” using the EO 13985 definition. Applying an intersectional and interconnected framework, USTR’s equity work refers to addressing barriers in order to achieve the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as women and girls; Black, Latino, Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

In the first comprehensive review in many years, USTR revised the agency's fiscal year 2022-2026 Strategic Plan and incorporated EO 13985 and EO 14035 on Diversity, Equity, Inclusion, and Accessibility (DEIA) so that advancing equity will be a core component of the agency's goals and objectives. USTR also began reviewing the advisory committee process and challenged current cleared advisors to recommend how the agency should advance equity in trade policy. Beginning with the October 2021 Trade and Environmental Policy Advisory Committee (TEPAC) *Federal Register* nomination notice, USTR is also exploring how the re-chartering of USTR-managed advisory committees can further EO 13985 and EO 14035 objectives.

*For a discussion on TEPAC and other advisory committees, see Chapter V.B.3 The Trade Advisory Committee System.*

### 2. Data Review: A Core Element of Assessing Equity

Upon reviewing EO 13985, USTR identified the Equitable Data Working Group as a forum from which new information could be gleaned in order to assist USTR in its assessment of the impact of past and future trade policies on underserved and marginalized communities. During 2021, USTR communicated and collaborated with the Equitable Data Working Group, other Executive Branch departments, agencies, and councils, and outside stakeholders on ways to advance the potential of improved data access to inform U.S. policies related to equity and trade.<sup>25</sup> USTR explored suggestions for expanding publicly available data,

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<sup>24</sup> In addition, the U.S. Trade Representative cochairs the White House Initiative on Asian American, Native Hawaiian, and Pacific Islanders and serves on the White House Council on Native American Affairs.

<sup>25</sup> Improved data access also relate to other Presidential initiatives include Executive Order (EO) 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*; EO 14020 that established and named USTR as a

processes to expand access to restricted data for cleared researchers, and a restoration of helpful, previously available but now discontinued data. USTR's goal was to seek to expand data analysis and reports to measure equity and analyze the effect of trade policy on underserved communities, including assessments based on race, ethnicity, gender, disability, income, veteran status, or other key demographic variables.

Over the past year, USTR sought to better understand the challenges, opportunities, and needs (data and tools) to explore the potential for analyzing the distributional effects of trade flows, policies, and agreements on underserved and marginalized communities. USTR reviewed the academic literature and topics for further research. Following this review, in October 2021, USTR requested that the USITC independently investigate the potential distributional effects of goods and services trade and trade policy on U.S. workers by skill, wage and salary level, gender, race/ethnicity, age, and income level, especially the effects on underrepresented and underserved communities. This investigation will explore gaps in existing data and economic literature and propose analyses that could be done with restricted data. The USITC is expected to deliver a report on these subjects in October 2022.

### 3. Trade and Gender

Consistent with the President's 2021 Trade Policy Agenda, USTR has been conducting a review of existing trade programs to evaluate their contribution to equitable economic development, including whether they reduce wage gaps, increase worker unionization, promote safe workplaces, tackle forced labor and exploitative labor conditions, and lead to the economic empowerment of women and underrepresented communities. In addition, USTR is committed to engaging in robust technical assistance and trade capacity building with trading partners to ensure workers and small and medium-sized enterprises, especially those owned by underrepresented groups, including women, around the world benefit from U.S. trade policy.

*For a discussion on trade and gender in the context of small and medium-sized businesses, see Chapter III.B Small and Medium-Sized Business Initiative.*

As discussed further in Chapter IV.L on the WTO, in 2021 USTR announced its intention to join the Joint Ministerial Declaration on the Advancement of Gender Equality and Women's Economic Empowerment Within Trade, although a date for adoption has not yet been determined following the postponement of the Twelfth WTO Ministerial Conference.

Some additional examples of activities USTR has undertaken during 2021 include:

- The U.S. Trade Representative has prioritized issues concerning trade and women in her travel engagement. In September 2021, while visiting North and South Carolina, the U.S. Trade Representative held a roundtable discussion with women executives and managers from local textile companies. The participants shared the experiences and challenges they have faced in establishing successful businesses and how trade policy could help them expand and grow. In Korea in November 2021, the U.S. Trade Representative participated in a round table discussion with female trade experts and professionals. These engagements provide the opportunity to highlight USTR's commitment to trade policy that promotes women's economic empowerment.

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member of the [Gender Policy Council](#); EO 13988, [Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#); EO 140310, [Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians and Pacific Islanders](#); EO 14036 [Promoting Competition in the American Economy](#); EO 14045, [White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Hispanics](#); and the Presidential Memoranda on [Tribal Consultation and Strengthening the Nation-to-Nation Relationship](#) and on [Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons around the World](#).

- The USMCA SME chapter includes commitments on enhanced cooperation to increase trade and investment opportunities for SMEs, including those owned by women, and directs the Parties to identify ways to assist SMEs to take advantage of the Agreement. In a July 2021 webinar for over 600 participants, organized by the USMCA SME Committee, women-owned SMEs shared best practices in expanding export sales into the North American markets, including electronic commerce; and webinar participants received information about government resources.
- The Central Asia Regional Women’s Economic Empowerment (WEE) Working Group of the United States–Central Asia TIFA convened in April, June and November of 2021. The meetings featured expert-led exchanges on COVID-19’s impact on regional small businesses, the role of customs and border services in WEE, and the impact of information portals and single windows on women-owned businesses; a presentation from Central Asian women representatives on recent developments affecting female entrepreneurship; and a discussion on how to ensure that governments in the region develop and adopt gender-responsive legislation and policies that provide better access to grants, loans, financing, skills development, and other relevant resources for women. The meetings resulted in a comprehensive list of over 40 recommendations which the Working Group will use to carry forward its work plan.
- In South America, USTR has used its bilateral engagement to highlight priorities for trade and women. In August 2021, USTR and Uruguayan officials met with local women entrepreneurs to hear about their experiences and interests, on the margins of the United States-Uruguay TIFA meeting. As part of USTR’s TIFA engagement with Ecuador, USTR visited with several SMEs run by Indigenous women in Ecuador who highlighted the unique challenges they face and opportunities for greater bilateral cooperation.
- USTR engaged with the African Continental Free Trade Area (AfCFTA) Secretariat and U.S. and African stakeholders on the importance of the AfCFTA Protocol on Women and Youth. During 2021, USTR collaborated with the U.S. Agency for International Development and the U.S. Commerce Department Commercial Law Development Program (CLDP) to identify resources to provide technical assistance to support work on the Protocol.

As part of USTR’s collaboration with the White House Gender Policy Council, a USTR Gender Equity Team was formed. The USTR Gender Equity Team applies an intersectional approach in supporting USTR’s role in the development of a Government-wide strategy to advance gender equity and equality, including through trade and investment engagement. The Gender Equity Team also supports USTR’s proactive engagement (*e.g.*, listening sessions, research, sharing materials) and policy development efforts on advancing gender and trade policy.

USTR’s Economics Office held an agency-wide briefing that included a review of the academic literature and topics for further research regarding trade and gender. In addition, USTR sought to better understand the challenges, opportunities, and needs (data and tools) to explore the potential for analyzing the distributional effects (*e.g.*, gender, race/ethnicity, age, geography, income levels) of trade flows, policies, and agreements. USTR also met with the White House Equitable Data Working Group, established under EO 13985 as noted above, which is assessing how to improve Federal data collection and processes to remedy the lack of disaggregated data by race, ethnicity, gender, disability, income, veteran status, or other key demographic variables.

## **B. Small and Medium-Sized Business Initiative**

The Office of the U.S. Trade Representative (USTR) has implemented a Small and Medium-Sized Business Initiative to increase export opportunities for U.S. small and medium-sized businesses (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 2021, 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 U.S. economic growth, jobs, and innovation. USTR focused on making trade work for the benefit of U.S. SMEs, helping them take advantage of new markets abroad, access and participate in global supply chains, and support jobs at home. USTR negotiated with foreign governments to open their markets and enforced existing U.S. trade agreements to ensure a level playing field for U.S. workers and businesses of all sizes. USTR worked to better integrate specific SME issues and priorities into trade policy development, increased outreach to SMEs around the country, and expanded interagency collaboration and coordination.

USTR supported efforts to help more SMEs reach overseas markets by improving information availability, leveraging new technology applications, and empowering local export efforts. USTR worked closely with the U.S. Small Business Administration (SBA), the U.S. Department of Agriculture, the U.S. Department of Commerce (Commerce), and other agencies that help provide U.S. SMEs with information, assistance, and counselling on specific export opportunities. In 2021, USTR undertook a range of actions in support of the SME Initiative.

### **Small and Medium-Sized Enterprise-Related Trade Policy Activities**

Tariff barriers, burdensome customs procedures, discriminatory or arbitrary standards, lack of transparency relating to relevant regulations, restrictions on digital trade, and insufficient intellectual property (IP) rights protection in foreign markets present particular challenges for U.S. SMEs exporting abroad. Under the SME Initiative, USTR's small business office, regional offices, and functional offices pursued initiatives and advanced efforts to address these issues.

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

- For the first time in a U.S. trade agreement, the United States included a dedicated chapter on SMEs in the United States–Mexico–Canada Agreement (USMCA), in recognition of 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 2019 (latest data available), 87,225 U.S. SMEs exported \$59.0 billion in goods to Canada, and 52,771 U.S. SMEs exported \$82.6 billion in goods to Mexico. The USMCA also contains key provisions supporting SMEs throughout the Agreement. The SME chapter promotes ongoing cooperation among the Parties to increase SME trade and investment opportunities. It established information-sharing tools that help SMEs better understand the benefits of the Agreement and provides other information useful for SMEs doing business in the region. The chapter also established a committee on SME issues comprised of government officials from each country. Furthermore, the chapter launched a new framework for an ongoing SME Dialogue, which is 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.

- Under the USMCA SME Chapter, the USMCA SME Committee organized a trilateral webinar in July 2021 on the topic of “Accessing USMCA Markets with E-Commerce: Tools for SMEs to increase online international sales.” Over 600 SMEs attended from the United States, Canada and Mexico to hear strategies and tips for success from women-owned SMEs from the three Parties who are successfully selling into the North American markets; learn about tools for electronic commerce from small business development centers and SME counselors; and receive information about government resources from the three Parties.
- In 2021, the SME Committee also launched a pilot network of small business development center (SBDC)/SME counselors among the United States, Mexico, and Canada to share best practices and help SME clients prepare for new trade opportunities under the USMCA. Pilot founding members from the United States are counselors from SBDCs, including from Historically Black Colleges and Universities, Women’s Business Centers, Minority Business Development Agency offices, Veterans Business Outreach Centers, and Native American Technical Assistance Centers. The SME Committee convened two meetings of the pilot USMCA SME Counselors network in 2021 to discuss topics including best practices for reciprocal SME matchmaking, and promoting trade among women-owned businesses. Additionally, the America’s Small Business Development Centers (ASBDC) International Interests section partnered with SBA and USTR to host a virtual meeting and breakout sessions for interested USMCA SME counselors. USMCA information for SMEs may be found at the SBA [Trade Tools for International Sales](#) and the [International Trade Administration](#) websites.
- The United States–European Union (EU) Trade and Technology Council, launched in 2021, includes an SME working group on promoting SME access to and use of digital tools. The United States and the EU continued their exchanges on SME objectives and planning for the 11th U.S.–EU SME Workshop in 2022 to be hosted by the EU in Germany.
- The United States and the United Kingdom (UK) continued their exchanges on SME objectives and planning for the 5th U.S.–UK SME Dialogue in 2022 to be hosted in Boston, Massachusetts, with the U.S. Export Assistance Center in New England and the UK Embassy.
- In the Asia-Pacific Economic Cooperation (APEC) forum, APEC economies continued to advance initiatives to facilitate SME access to global markets, including by enhancing policy makers’ understanding of the role of data flows in building a more inclusive digital economy. The United States, through the APEC Alliance for Supply Chain Connectivity and other mechanisms, continued capacity building activities closely linked to the World Trade Organization (WTO) Trade Facilitation Agreement. These activities included assistance for economies to further simplify customs procedures and document requirements and to foster border agency cooperation, which will 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 continued to update the [APEC Trade Repository](#) to help SMEs seeking information on tariff rates, customs procedures, and other information for doing business in the APEC region.

- USTR worked with the U.S. Agency for International Development (USAID) Mission in Nairobi to develop and announced in 2021 USAID’s multi-year pilot program with the Government of Kenya to establish county-level small business centers with Kenyan universities based on the U.S. SBDC model, including programs for women-owned small businesses.
- In the WTO context, USTR pursued work with other Members on issues of interest to SME stakeholders, such as electronic commerce, transparency of regulatory processes, and implementation of trade facilitation measures.
- During 2021, USTR worked with USAID, Commerce, SBA and the Association of Southeast Asian Nations (ASEAN) on the development of topics and participants for a United States–ASEAN SME Best Practices Exchange.
- Under the United States–Uruguay Trade and Investment Framework Agreement, experts from the United States and Uruguay discussed best practices in SME counseling and international trade.

### **U.S. Government Small and Medium-Sized Business Activities**

USTR participated in the Trade Promotion Coordinating Committee’s (TPCC) Small Business Working Group, collaborating with agencies such as the U.S. Departments of Agriculture, Commerce, and State, SBA, and the U.S. Export-Import Bank to promote small business exports, including by connecting SMEs to trade information and resources to help them begin or expand their exports and take advantage of existing trade agreements. This work also involved improving U.S. Government digital outreach and engagement with potential small business exporters with online tools. USTR also participated in interagency work assisting small and underserved businesses through export promotion.

### **Small and Medium-Sized Enterprise Outreach and Consultations**

In 2021, USTR regularly consulted 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 met frequently with individual SMEs and associations representing SME members on specific issues. USTR apprised SMEs at several SME events in 2021 regarding U.S. trade priorities, including the annual America’s Small Business Development Center Conference, which took place virtually; the National Association of District Export Councils Trade Policy Committee meetings; and other events aimed encouraging SMEs to begin or expand their exports, including through the use of digital tools and electronic commerce.

## **C. Agriculture and Trade**

The United States is the world’s largest exporter and importer of 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 2021, U.S. agricultural domestic exports reached \$177 billion<sup>26</sup> and created an estimated \$202 billion in additional U.S. economic activity, for a total U.S. economic output of \$379 billion.

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<sup>26</sup> Total U.S. agricultural (WTO definition) exports were \$182.8 billion in 2021, U.S. domestic exports were \$177 billion, and U.S. re-exports were \$5.7 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. Throughout 2021, the COVID-19 pandemic continued to create challenges and uncertainty for agricultural producers, food manufacturers and food distributors worldwide, due to supply chain and other disruptions. Further, continued unjustified retaliatory tariffs on U.S. farm goods affected market access opportunities for many U.S. agricultural producers. Despite these multiple, complex challenges, U.S. agricultural producers maintained high levels of efficiency and production, and continued to provide safe and high-quality foods and beverages to U.S. and global consumers.

## 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 U.S. Government agencies. The Office of the U.S. Trade Representative (USTR) leads the U.S. Government's approach to develop and implement trade policy. U.S. regulatory agencies such as the U.S. Department of Health and Human Services' Food and Drug Administration (FDA); the 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 (USDA) Food Safety and Inspection Service (FSIS), Animal and Plant Health Inspection Service (APHIS), and Agricultural Marketing Service (AMS) work together to ensure that American food and agricultural products are among the safest in the world. USTR works with USDA's Foreign Agricultural Service (FAS), the Department of Commerce, 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 of the United States in opening and maintaining export markets for U.S. agricultural goods in 2021 include:

**Algeria Restores U.S. Market Access for Almonds:** On February 28, 2021, after U.S. Government intervention, the Government of Algeria suspended its implementation of a year-round ban on almond imports, including on U.S. almonds, a market valued at approximately \$23.7 million in 2021. The measure now restricts imports only during the harvest season in Algeria, from June 1 to August 31.

**African Union Accepts Sanitary and Phytosanitary Advisor Funded by the United States:** In September 2021, the U.S. Government approved funding for a Sanitary and PhytoSanitary (SPS) advisor to share expertise with interested African partners to support collaboration on the development of science-based SPS policy frameworks that utilize risk-based approaches for the production and trade of food and agricultural products. This work will help to promote agricultural trade between the United States and Africa, to the benefit of both U.S. and African farmers and food producers.

**Angola Reduces Restrictions on Imports of U.S. Poultry:** In the first quarter of 2021, as a result of interventions by USTR and USDA bilaterally and at the WTO, Angola reduced restrictions on U.S. poultry imports. In 2021, U.S. poultry exports were over \$130 million to Angola, which is the third largest market globally for U.S. chicken leg quarters by value.

**Colombia Signs Exchange of Letters Preserving U.S. Corn Market Access:** In July 2021, the United States and Colombia finalized an exchange of letters under the United States–Colombia Trade Promotion Agreement to clarify requirements on Colombia's certificates of origin accompanying U.S. corn exported to Colombia. The exchange of letters eliminated bureaucratic requirements for U.S. exporters to list the names of U.S. farmers on export certificates and ended Colombia's investigations of the origin of U.S. corn imports. The exchange of letters protects access to the fourth largest U.S. corn export market, with U.S. exports valued at approximately \$1.1 billion in 2021.

**Colombia Declines to Implement Safeguard on Imports of U.S. Dairy Products:** In June 2021, Colombia initiated a safeguard investigation into imports of U.S. milk powder, valued at approximately \$100 million in 2020. USTR, USDA, and the Department of State collaborated closely with U.S. industry to provide Colombia’s investigating authority with accurate data demonstrating that the imposition of a safeguard on U.S. dairy imports was not warranted. The United States also raised the importance of this issue in a meeting of the United States–Colombia Trade Promotion Agreement Agriculture Committee in October 2021, urging Colombia to conduct the investigation in a manner consistent with its international commitments on the use of trade remedies, such as safeguards. In December 2021, Colombia announced that its investigation did not find evidence justifying safeguard measures on U.S. dairy products.

**China Imports Record Amounts of U.S. Meat and Poultry Products for Second Year in a Row:** In 2021, China’s combined imports of U.S. pork, beef, and poultry hit an all-time high, breaking the 2020 record. Significant growth in U.S. beef exports drove the majority of the gains, while strong U.S. poultry exports and continued Chinese demand for imported pork products supported the record-breaking total. Maintenance of new and expanded market access for U.S. beef and poultry secured through the United States-China Economic and Trade Agreement facilitated the increased imports of these U.S. products.

**China Imports Record Amount of U.S. Corn:** As China’s pork producers recovered from an outbreak of African swine fever and rebuilt their herds, U.S. corn exports supplied historic Chinese demand for imported corn for animal feed. By the end of April 2021, U.S. corn exports to China had already exceeded the 2020 full-year total, peaking at \$915 million worth of product exported to China in the month of May alone. These exports benefitted from China’s tariff exclusion process, established to facilitate China’s purchases of U.S. goods under the United States–China Economic and Trade Agreement.

**Ecuador Makes Tariff Exemptions on Wheat and Soybean Meal Permanent:** Following U.S. engagement in the United States–Ecuador Trade and Investment Council, Ecuador announced that it would extend for five years tariff exemptions on imports of wheat and soybean meal, as of December 26, 2019. Subsequently, in July 2021, Ecuador made these exemptions permanent. Previously, Ecuador’s tariffs for these products were bound in the WTO at 38.7 percent and 23.1 percent, respectively. The certainty provided by the tariff exemptions will benefit U.S. exporters, who offer competitive commodity prices and have established relationships with importers. In 2021, U.S. exports of soybean meal to Ecuador were valued at approximately \$279 million, while U.S. exports of wheat were valued at approximately \$72 million.

**Egypt Adopts Veterinary Drug Standards:** On November 15, 2020, Egypt’s National Food Safety Authority (NFSA) set new maximum residue levels (MRLs) for veterinary drugs, including ractopamine. For each of the new MRLs, NFSA followed guidelines of Codex Alimentarius Commission or performed a risk assessment. Egypt’s use of science-based MRLs has reduced barriers to U.S. beef exports. In 2021, U.S. exports of beef and beef products to Egypt increased by approximately 30 percent to \$73.6 million.

**Egypt Extends Shelf-Life for Fish and Beef Livers:** In July 2021, following U.S. Government intervention, Egypt’s Minister of Trade and Industry signed Decree No. 322/2021, further extending the shelf-life validity period for imported frozen fish from six to nine months and of frozen beef liver from seven to ten months. U.S. exports of frozen beef livers to Egypt totaled \$67.2 million in 2021

**General Agreement on Tariffs and Trade Article XXVIII Negotiations with the European Union and United Kingdom on Brexit Tariff Rate Quotas:** USTR conducted separate bilateral negotiations with the European Union (EU) and United Kingdom (UK) on TRQ commitments to account for the withdrawal of the UK from the EU customs union. The EU based its initial TRQ apportionment between the UK and EU on pre-Brexit TRQ import quantities. USTR negotiated outcomes that provide certainty to U.S.

exporters regarding access to the UK and EU markets and result in favorable outcomes on U.S. market access for products such as pork, beef, rice, and grape juice. The UK implemented several of its TRQs in July 2021, and most of the remaining TRQs on January 1, 2022, based on timeframes that the UK has traditionally used to administer its various TRQs. The EU TRQs are in the process of finalization.

**European Union Extends Deadline for Animal Product Certificates:** Throughout 2021, the United States engaged with the EU on new animal health requirements for products of animal origin that are intended for export to or transiting through the EU. In August 2021, the EU extended the transition period allowing the use of existing animal health certificates issued prior to January 15, 2022 to accompany consignments entering the EU by March 15, 2022. The extension allows the United States time to update certificate templates and U.S. export verification programs for animal origin products intended for export to the EU. Nearly \$500 million in U.S. products are subject to the new certification requirements.

**The United States Preserves Market Access for U.S. Poultry Exports to Georgia:** In October 2020, Georgia began to enforce an unnotified regulation that established trade-restricting water retention limits on all imports of poultry. Following several U.S. Government bilateral meetings with the Georgian Government throughout 2020 and 2021, Georgia increased its water retention limit to a number that permitted continued market access for U.S. poultry, and agreed to not require any additional certification for U.S. poultry. USTR and USDA also persuaded Georgia to notify the original regulation and its subsequent amendments to the WTO. In 2021, U.S. poultry exports to Georgia totaled approximately \$37.0 million.

**Guatemala Implements Trade Facilitative Customs Procedures:** In 2021, following significant engagement by the United States, Guatemala modified its tariff schedule publication process, aligning those published by their Customs authority and Economy Ministry to avoid complications with determinations of tariff preferences under the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA–DR). This change helped expedite Guatemalan Customs clearance of U.S. exports claiming CAFTA-DR benefits, saving time and money and resulting in more transparent import requirements.

**Advocacy for Science-Based Policies in Korea Related to Agricultural Biotechnology:** Following technical engagement by USTR with Korean officials under the United States–Korea Free Trade Agreement (KORUS) SPS Committee in 2020 and 2021, and the submission of comments on the Korean measure by the U.S. Government, in August 2021, the Korean Ministry of Food and Drug Safety (MFDS) confirmed that it scaled back the number of data requirements necessary to secure a Korean food safety approval, further aligning its requirements with international guidelines.

**India Opens Its Market to U.S. Pork Imports:** In December 2021, India agreed to accept imports of U.S. pork and pork products, removing a longstanding barrier to U.S. agricultural trade. This Indian Government action followed USTR engagement during the successful revitalization of the United States–India Trade Policy Forum (TPF) and the November 2021 TPF meeting in New Delhi, in which access for U.S. pork was discussed.

**Japan Lifts Mandatory Inspections on U.S. Walnuts:** On April 1, 2021, Japan lifted its mandatory aflatoxin inspection requirement for imports of U.S. walnuts. This marked the first suspension of the 100 percent hold-and-test inspection requirement for aflatoxin vulnerable imports since Japan implemented it in 2004. In 2020, the United States exported approximately \$114 million of walnuts to Japan.

**Korea Recognizes Eligibility of U.S. Beef Establishments to Export to Korea:** On July 5, 2021, Korea agreed to recognize two U.S. beef establishments as eligible to export to Korea. The establishments had been suspended due to residue violations detected on exported beef products in November 2019 and September 2020, respectively. USTR and USDA worked with the establishments to identify corrective

actions to address the residue detections, and pressed Korean authorities to recognize the renewed export eligibility of these establishments based on these corrective actions, pursuant to authorities granted to U.S. regulators under a partially-implemented 2008 beef market access agreement between the United States and Korea.

**Mexico Clarified New Organic Requirements for U.S. Organic Exports:** On December 28, 2020, Mexico delayed the entry into force of its new organic requirements, thereby providing U.S. organic products continued market access while Mexico clarified its new requirements. Throughout 2021, at the request of the United States, Mexico provided additional information about implementation of its new organic requirements. The new requirements entered into force in January 2022. U.S. exports of organic products to Mexico in 2021 were valued at approximately \$202.5 million.

**Morocco Expands U.S. Beef Market Access:** On January 28, 2021, Morocco's Customs Administration requested additional documentation for U.S. exports of beef and beef products. The documentation was meant to confirm that U.S. beef and beef products meet the terms specified in the Rules of Origin Chapter of the United States–Morocco Free Trade Agreement (FTA) as applied by Moroccan Customs. In February 2021, the United States and Morocco agreed to the use of a self-attestation to meet these requirements.

**Morocco Provides New Market Access for U.S. Live Aquatic Animals:** On October 12, 2021, the United States and Morocco finalized a sanitary certificate for exports of live U.S. aquatic animals. The completion of this certificate offers new opportunities for U.S. exporters of live aquatic animals, gametes, and eggs of aquatic animals intended for farming, restocking, and ornamental uses.

**Philippines Extends Temporary Duty Reduction on U.S. Poultry:** In January 2021, following consultations and engagement with U.S. industry, Philippine importers, and the U.S. Government, the President of the Philippines signed Executive Order 123 which immediately extended a temporary duty reduction to five percent for imports of mechanically deboned meat of chicken and turkey through December 31, 2022. In 2021, U.S. exports of poultry to the Philippines totaled approximately \$147.7 million, up 131 percent over 2020. The Philippines is the seventh largest market for U.S. poultry.

**Philippines Lowers Tariffs on U.S. Pork:** Following a United States–Philippines Trade and Investment Framework Agreement Agriculture Working Group meeting in December 2020, and subsequent consultation with U.S. industry, Philippine importers, and the U.S. Government, the Philippines issued an executive order in April 2021 lowering Most Favored Nation tariff rates on imported fresh, chilled, and frozen pork and increasing quota volumes for imports of such products for one year. U.S. pork exports to the Philippines totaled approximately \$126.9 million in 2021, up 147 percent over 2020.

**Saudi Arabia Extends Grace Period for U.S. Alfalfa:** In 2021, Saudi Arabia informed the United States that it would no longer permit imports of alfalfa transshipped through the United Arab Emirates. The United States successfully negotiated a one-year grace period to allow fulfillment of existing alfalfa contracts which Saudi Arabia, until March 2023. The grace period preserves U.S. exports of alfalfa worth approximately \$3 million annually.

**Saudi Arabia Delays Registration Requirement:** In April 29, 2021, Saudi Arabia notified the WTO that it will begin implementing a regulation that establishes registration and listing requirements through approved respective competent authorities of each country for establishments producing animal products. Saudi Arabia is implementing the measure in tranches, starting with seafood and honey and bee products, with an additional requirement to provide scientific and commercial names for seafood. After several meetings and exchanges between Saudi Arabia and the United States in November 2021, Saudi Arabia agreed to provide the United States a one-year grace period to comply with the requirements for the

specified products and add in the required scientific and commercial names for seafood. U.S. exports of seafood, honey, and bee products totaled approximately \$2.7 million in 2021.

**South Africa Increases TRQ Volume for U.S. Poultry Imports:** In the spring of 2021, South Africa increased the quota for imports of U.S. exports of bone-in poultry meat for the 2021/22 quota year, to 71,290 metric tons. In the previous quota year, South Africa filled 94 percent of the total quota level of 69,972 metric tons, despite unprecedented circumstances including challenges due to COVID-19. The increase in poultry exports resulted from engagement by USTR and USDA to clarify and improve South Africa's guidelines for the utilization of TRQ allocations for U.S. bone-in chicken imports.

**Thailand Eliminates Burdensome Requirements for U.S. Beer, Wine, and Spirits:** In August 2021, Thailand approved a U.S. request to accept the Asia-Pacific Economic Cooperation (APEC) Model Wine Export Certificate for wine, and the standard U.S. Alcohol and Tobacco Tax and Trade Bureau Certificate of Sanitation for beer and spirits. Thailand will not require any other testing or certificate of analysis, removing a costly and onerous barrier for U.S. exporters.

**Ukraine Extends Validity of Veterinary Certificates:** USTR and USDA successfully advocated for Ukraine to extend the validity of 72 veterinary certificates until both countries can negotiate new bilateral certificates. The extension effectively preserves access for approximately \$79 million worth of U.S. exports of meat, poultry, dairy, live animals, and genetics after Ukraine adopted new model certificates.

**Vietnam Approves Two Biotechnology Products:** In June 2021, after extensive engagement from USDA and USTR, Vietnam's Ministry of Agriculture and Rural Development (MARD) announced that MARD had approved two biotechnology events important for U.S. farmers, one corn and one soybean. MARD approved the final two outstanding applications, both for corn, in late August.

**The United States Ensured Continuity of Market Access in Vietnam for Imports of U.S. Animal Feed and Feed Ingredients:** Following sustained engagement by USTR and USDA, in June 2021 Vietnam issued circular 05/2021 amending requirements in National Technical Regulation (NTR) 190 for the Maximum Level of Undesirable Substances in Feed and Feed Ingredients. The amendment, which took effect in July 2021, reflected input and technical recommendations provided by the United States, maintaining market access for U.S. feed and feed ingredients. Had NTR 190 not been amended, the measure was expected to negatively affect up to approximately \$1 billion per year in U.S. exports to Vietnam.

**Vietnam Revokes Certificate of Free Sale Requirement for U.S. Bulk Feeds:** In response to requests from the United States and other trading partners, Vietnam indefinitely delayed a proposed requirement under Decree 13/2020 that imports of animal feeds be accompanied by a certificate of free sale (CFS). The United States encouraged Vietnam to accept USDA Animal and Plant Health Inspection Service export certificates as sufficient to attest to the safety of U.S. feed and feed ingredients of plant origin. In March 2021, Vietnam confirmed that it would eliminate the requirement for a CFS for bulk commodities and traditional feeds, but will maintain a CFS requirement for single ingredients, such as vitamins and minerals. The revocation of a CFS preserves access to an important market for U.S. bulk feed, which account for approximately 30 percent of U.S. agricultural exports to Vietnam.

**Taiwan Expands Access for U.S. Beef and Beef Products:** On January 1, 2021, Taiwan lifted the ban on imports of U.S. beef and beef products derived from cattle 30 months of age and older after over a decade of USTR and USDA engagement. Taiwan later clarified removal of the ban to include U.S. beef and beef products derived from Canadian-born cattle aged 30-months or over that are raised in the United States for at least 100 days prior to slaughter in the United States.

## **2. Bilateral and Regional Activities**

### **Promoting Trade and Food Security in Asia Pacific Economic Cooperation Dialogues**

During the Asia Pacific Economic Cooperation (APEC) Sixth Ministerial Meeting on Food Security on August 19, 2021, APEC economies finalized and adopted a 2030 Roadmap on Food Security, which outlines the overarching objectives for APEC engagement on agriculture and food security. The document recognizes the critical role that trade plays in food security for APEC economies and outlines high-level objectives for discussion in future APEC meetings, while also respecting the role and responsibilities of the WTO in multilateral trade negotiations. The United States played a critical role in developing the 2030 Roadmap, which promotes strategic initiatives on agricultural policy issues to achieve greater food security in APEC economies and globally.

*For further discussion on United States participation in Asia Pacific Economic Cooperation, see Chapter I.B.3 Japan, Republic of Korea, and the Asia-Pacific Economic Cooperation Forum.*

### **United States–Australia Free Trade Agreement**

In 2020, the United States and Australia agreed to continue work under the United States–Australia Free Trade Agreement (AUSFTA) to make progress on U.S. requests for agricultural products. Following the April 2020 meeting of the AUSFTA SPS Committee, the United States and Australia continued to review animal health information for market access requests throughout 2021. Following completion of Australia’s review of access for U.S. fresh and frozen beef in December 2019, USDA continues to work with Australia to give U.S. beef suppliers full access to the market.

*For further discussion on the United States–Australia Free Trade Agreement, see Chapter I.A.1 Australia.*

### **United States–Mexico–Canada Agreement**

On July 1, 2020, the United States–Mexico–Canada Agreement (USMCA) entered into force, replacing the North American Free Trade Agreement (NAFTA). The Parties held the first meeting of the USMCA Committee on Sanitary and Phytosanitary Measures on May 6, 2021. The United States raised concerns and requested information regarding applications for biotechnology products for food and feed use in Mexico, and the articles pertaining to biotechnology corn of Mexico’s decree that entered into force January 1, 2021. The United States and Canada provided regulatory updates, including on their regulatory processes with regard to genome edited organisms or products. The Parties held the first meeting of the USMCA Committee on Agricultural Trade on June 23, 2021. The United States provided an update on USDA’s Supply Chain Review, and Mexico provided an update on its organic requirements. The Parties held the first meeting of the Working Group for Cooperation on Agricultural Biotechnology on December 16, 2021. The United States raised concerns regarding biotechnology policies in Mexico. The Parties provided regulatory updates and exchanged views regarding the role of biotechnology in meeting the challenges of climate change, sustainability, and food security.

*For further discussion on the United States–Mexico–Canada Agreement, see Chapter I.A.9 Mexico and Canada (USMCA).*

## **United States–Central Asia Trade and Investment Framework Agreement**

During the United States–Central Asia Trade and Investment Framework Agreement meetings held March 29, 2021 to April 2, 2021, the United States raised market access for animal products with Uzbekistan, facility listing issues with Kazakhstan, and a poultry tariff issue with Tajikistan.

*For further discussion on the United States–Central Asia Trade and Investment Framework Agreement, see Chapter I.B.7 South and Central Asia.*

## **United States–China Economic and Trade Agreement**

Throughout 2021, the United States worked to advance China’s implementation of the Economic and Trade Agreement and to maintain new and expanded market access for U.S. food and agricultural exports to China. Through consistent engagement with China, the United States exported a record amount of U.S. food and agricultural products to China, despite global supply chain shocks, and ensured U.S. food and agricultural production facilities continued to benefit from prompt registration procedures. The United States minimized the negative impact of changes to China’s food and agricultural import regulations, including those related to COVID-19 and overseas food manufacturing facility registration.

*For further discussion on the Economic and Trade Agreement, see Chapter II.B.1.i United States–China Economic and Trade Agreement.*

## **United States–Colombia Trade Promotion Agreement**

The United States–Colombia Trade Promotion (the Agreement) entered into force in May 2012. More than half of U.S. agricultural exports became duty-free upon entry into force, with most remaining tariffs phased out over 15 years. Colombia eliminated duties on wheat, barley, soybeans, soybean meal and flour, high-quality beef, bacon, almost all fruit and vegetable products, peanuts, whey, cotton, and the vast majority of processed products. The Agreement also provides duty-free access for specified volumes of standard grade beef cuts, chicken leg quarters, pork, corn, sorghum, animal feeds, rice, soybean oil, and dairy products through TRQs. The United States engages extensively with Colombia on a regular basis and in annual meetings of the Agreement SPS and Agriculture committees. The two committees convened virtually in October 2021 to discuss preferential treatment for U.S. corn under the Agreement TRQ (Colombia is the fourth largest export destination for U.S. corn, with U.S. exports of corn valued at approximately \$1.1 billion in 2021); Colombia’s initiation of a safeguard investigation into imports of U.S. dairy products; the expiration of countervailing duties on imports of U.S. ethanol in 2022; cooperation on biotechnology; and, other SPS-related market access issues.

*For further discussion on the United States–Colombia Trade Promotion Agreement, see Chapter I.A.5 Colombia.*

## **Dominican Republic–Central America–United States Free Trade Agreement**

Agricultural export and investment opportunities with Central America and the Dominican Republic have continued to grow under the CAFTA–DR. All of the CAFTA–DR parties 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 nearly all tariffs are eliminated by no later than 2025.

In 2021, the CAFTA–DR Agriculture Review Commission met and discussed agricultural trade data that were exchanged between the Parties, as agreed in November 2019. 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.

In 2021, U.S. exports of agricultural products to the CAFTA–DR region were valued at approximately \$6.8 billion.

*For further discussion on the Dominican Republic–Central America–United States Free Trade Agreement, see Chapter I.A.3 Central America and the Dominican Republic (CAFTA–DR).*

### **United States–European Union Consultations on Agricultural Biotechnology**

In accordance with the 2008 decision by the United States and the EU to suspend Article 22.6 arbitration proceedings associated with WTO DS291, the EU agreed to hold semiannual consultations with the United States to normalize trade in agricultural biotechnology products. Significant delays in the EU for agricultural biotechnology approvals continue to represent a major barrier to the commercialization and trade of safe products. During U.S.-EU consultations on June 18, 2021 and December 9, 2021, the United States reiterated concerns with the continued delays that applicants face while navigating the EU’s biotechnology approval procedures. In 2021, the EU returned to scheduling regular meetings of the Standing and Appeals Committees responsible for issuing biotechnology approvals and issued eighteen product approvals and renewals, compared to one approval in 2020.

### **United States–Israel Agreement on Trade in Agricultural Products**

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. The FTA’s Joint Committee (JC) is the central oversight body for the FTA. At a February 2016 meeting of the JC, Israel proposed resuming negotiations on a permanent successor agreement to the United States–Israel Agreement on Trade in Agricultural Products. The first round of negotiations was held in November 2018 and a second round of negotiations took place in March 2019. At the November 2020 JC, the United States and Israel agreed to continue these discussions in 2021. However, these negotiations had yet to resume as of December 2021 due to Israel’s national elections in March of 2021 and following a protracted period of time needed to form a government.

In 2021, U.S. exports of agricultural products to Israel were valued at approximately \$685.0 million.

*For further discussion on the United States–Israel Free Trade Agreement, see Chapter I.A.6 Israel.*

### **United States–Japan Trade Agreement**

The United States–Japan Trade Agreement (USJTA) entered into force on January 1, 2020. The Agreement provides America’s farmers and ranchers enhanced market access in the United States’ fourth largest agricultural export market in 2021. The Agreement enables American producers to compete effectively with countries that have preferential tariffs in the Japanese market through other bilateral and regional agreements. Pursuant to the USJTA, Japan 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 match the tariffs that Japan provides preferentially to countries in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. Over 90 percent of U.S. food and agricultural imports into Japan receive either duty free treatment or preferential tariff access under the USJTA. In March 2021, following Japan’s implementation of the beef safeguard under the USJTA, the

United States and Japan entered into consultations to adjust the applicable safeguard trigger to higher levels. Those consultations extended through 2021 and are ongoing.

*For further discussion on the United States–Japan Trade Agreement, see Chapter I.B.3 Japan, Korea, and Asia-Pacific Economic Cooperation (APEC).*

### **United States–Korea Free Trade Agreement**

The 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 in 2021 were valued at approximately \$9.4 billion, making Korea the U.S. fifth largest agricultural export market. Exports of U.S. beef to Korea have soared from approximately \$583 million in 2012, when KORUS entered into force, to approximately \$2.4 billion in 2021, making Korea the largest export destination for U.S. beef and beef products. 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 SPS and Agriculture committees last met in December 2020, and officials convened a smaller meeting in September 2021 to take stock of progress raised in the committees, including on establishing science-based residue limits for imports of U.S. meat and poultry into Korea, the registration of pesticides, and Korea’s approval procedures for products of agricultural biotechnologies. Plans to reconvene the two committee in December 2021 were disrupted by the ongoing pandemic, but both sides aim to meet in the committees early in 2022 for the 2021 calendar year period, and again later in 2022 for the 2022 calendar year period.

*For further discussion on the United States–Korea Free Trade Agreement, see Chapter I.A.8 Korea (KORUS).*

### **United States–Moldova Joint Commercial Commission**

On December 9, 2021, the United States and the Republic of Moldova met virtually for the fifth meeting of the United States–Moldova Joint Commercial Commission. During and following the meeting, Moldova has made progress on approving the U.S. wholesomeness certificate to allow access for U.S. beef exports to the Moldovan market.

*For further discussion on the United States–Moldova Joint Commercial Commission, see Chapter I.B.2 Europe and the Middle East.*

### **United States–Morocco Free Trade Agreement**

The United States–Morocco FTA entered into force on January 1, 2006. Under the FTA, the Agriculture and SPS subcommittee held meetings in October 2021. In 2021, Morocco and the United States discussed the use of common names for meats and cheeses, along with addressing sanitary and phytosanitary issues impeding trade. The United States and Morocco also looked for opportunities to increase cooperation on policy issues of mutual interest.

*For further discussion on the United States–Morocco Free Trade Agreement, see Chapter I.A.10 Morocco.*

### **United States–Panama Trade Promotion Agreement**

The United States–Panama Trade Promotion Agreement entered into force on October 31, 2012. Under the Agreement, 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 from the Agreement's entry into force. Following the first tariff reduction under the Agreement on October 31, 2012, subsequent tariff reductions occur on January 1 of each year; the tenth round of tariff reductions took place on January 1, 2021. The United States and Panama continued to work cooperatively during 2021, convening the Agriculture, Technical Barriers to Trade (TBT), and Sanitary and Phytosanitary (SPS) Committees to discuss and address issues of concern.

*For further discussion on the United States–Panama Trade Promotion Agreement, see Chapter I.A.12 Panama.*

### **United States–Peru Free Trade Agreement**

The United States–Peru Free Trade Agreement entered into force in February 2009. More than two-thirds of U.S. farm exports became duty-free immediately after the Agreement entered 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 agricultural trade are addressed in the Agriculture and SPS Committees that were established under the Agreement, as well as in the Free Trade Commission, as needed. The SPS Committee last met in September 2020. 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. The United States and Peru did not convene the SPS and Agriculture Committees in 2021, but aimed to do so virtually in the first half of 2022.

*For further discussion on the United States–Peru Free Trade Agreement, see Chapter I.A.13 Peru.*

### **United States–Taiwan Trade and Investment Framework Agreement**

The United States and Taiwan held a United States–Taiwan Trade and Investment Framework Agreement Council meeting on June 29, 2021, under the auspices of the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States. The United States raised concerns regarding market access barriers facing U.S. beef and pork producers. The U.S. and Taiwan authorities committed to intensify engagement aimed at addressing these barriers and other outstanding trade concerns.

### **United States–Ukraine Trade and Investment Cooperation Agreement**

Delegations from the United States and Ukraine met on November 9, 2021, under the United States–Ukraine Trade and Investment Cooperation Agreement. The United States reviewed Ukraine's efforts to ensure its import requirements for animal-based products are transparent and based on international standards. Both delegations also explored options for U.S. exports of live heifers to Ukraine to the benefit of farmers in both countries. The participants also discussed ideas on how to increase production in the agriculture sector and on how to advance climate change solutions and sustainability, particularly through the use of innovative technologies.

*For further discussion on the United States–Ukraine Trade and Investment Cooperation Agreement, see Chapter I.B.2 Europe and the Middle East.*

### **United States–Uruguay Trade and Investment Framework Agreement**

During a meeting under the United States–Uruguay Trade and Investment Framework Agreement on August 5, 2021, the United States and Uruguay discussed certain opportunities for the countries to continue cooperation on issues of common interest, including agricultural biotechnology, geographical indications,

and SPS issues. The United States and Uruguay also exchanged views on market access for agricultural products.

*For further discussion on the United States–Uruguay Trade and Investment Framework Agreement, see Chapter I.B.1 The Americas.*

### **3. Agriculture in the World Trade Organization**

*For a discussion on the Committee on Agriculture and Committee on the Application of Sanitary and Phytosanitary Measures, see Chapter IV.E Council for Trade in Goods; for a discussion on the, Committee on Agriculture, Special Session, see Chapter IV.B Negotiating Groups.*

### **4. Enforcing Trade Agreements for American Agriculture**

Enforcement and monitoring cover a broad expanse of activities in support of American agriculture. Every day the U.S. Government works to monitor other countries' compliance with trade obligations. In addition to participating in dispute settlement, either at the WTO or through available mechanisms under relevant trade agreements, the United States works to resolve specific trade concerns, reviews and comments on proposed regulations that could unnecessarily impede trade, and advocates for elimination of unwarranted barriers.

In 2021, meaningful progress was made on a number of disputes brought by the United States.

Pending WTO disputes involving agricultural products are:

- 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); and
- Indonesia – Import Restrictions on Horticultural Products, Animals, and Animal Products (DS455, DS465, and DS478).

In addition, the United States brought the following dispute under the USMCA:

- Canada – Allocation of Dairy Tariff-Rate Quotas.

*For further discussion on these disputes, see II.D WTO and FTA Enforcement.*

## **D. 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 2021, the Office of the U.S. Trade Representative (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.

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 2021, the United States and other participating governments continued negotiations on the basis of Members’ proposals. By the end of 2021, this work resulted in additional progress on the consolidated text developed in 2020.

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. This decision will remain effective until the Twelfth Ministerial Conference, which has yet to be rescheduled as of December 31, 2021. The United States continued to work to develop support for extending this moratorium until the Thirteenth Ministerial Conference.

USTR raised digital trade issues in many bilateral and multilateral engagements throughout 2021, including in consultations with free trade agreement partners, in Trade and Investment Framework Agreement meetings, and in the WTO, where appropriate. USTR also continued to advocate for U.S. digital trade interests in international fora such as the Group of 20, Group of 7, and the Organization for Economic Cooperation and Development.

In addition to efforts to address digital trade barriers, in 2021 USTR looked at issues of digital trade in a broader context, in particular the way these issues affect people as both workers and consumers. USTR’s approach to digital trade also incorporates security concerns, recognizing the importance of confidence not only in digital infrastructure but the underlying physical infrastructure as well.

## **E. Intellectual Property**

During 2021, the United States used 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.<sup>27</sup> Toward this end, the United States worked to ensure 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 U.S. Government identified laws, policies, and practices in foreign countries that fail to provide adequate and effective IP protection and enforcement for U.S. inventors, creators, brands, manufacturers, and service providers.<sup>28</sup> Challenges included copyright piracy, which particularly 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 24 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 (GIs), 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.

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<sup>27</sup> Intellectual property rights include copyrights, patents, industrial designs, trademarks, and trade secrets.

<sup>28</sup> In 2014 (latest data available), IP-intensive industries directly or indirectly accounted for 45.5 million jobs in the United States, which constituted nearly one third of all U.S. employment at the time.

businesses, including small and medium-sized businesses (SMEs). The reach of trade secret theft into critical commercial and defense technologies poses threats to U.S. national security interests as well.

The United States deployed 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. The United States sought strong protection and enforcement for IP rights during the negotiation, implementation, and monitoring of IP provisions of trade agreements. The United States also pressed trading partners on innovation and IP issues through bilateral engagement and other means, including with: Argentina, Australia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Ecuador, Egypt, India, Indonesia, Kuwait, Malaysia, Mexico, Moldova, Pakistan, Paraguay, the Philippines, Romania, Saudi Arabia, South Africa, Taiwan, Thailand, Turkmenistan, Ukraine, Uzbekistan, the United Arab Emirates, and Vietnam. The United States also engaged bilaterally and regionally with other countries through the annual “Special 301” review and Notorious Markets report. *(For further information, see Chapter II.E.3 Special 301.)*

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-volume manufacturing and export of pirated and counterfeit goods to markets around the globe. Combined, shipments and goods coming from or through China and Hong Kong in Fiscal Year 2020 accounted for the overwhelming majority (83.3 percent) of all U.S. Customs and Border Protection (CBP) border seizures of IP rights infringing merchandise. Severe challenges persist because of excessive regulatory requirements and informal pressure and coercion to transfer technology to Chinese companies, continued gaps in the scope of IP protection, incomplete legal reforms, weak enforcement channels, and lack of administrative and judicial transparency and independence. The United States’ engagement of China has been demonstrating progress since the signing of the United States–China Economic and Trade Agreement in January 2020. The Office of the U.S. Trade Representative (USTR) has been closely monitoring China’s progress in implementing its commitments. *(For further information, see Chapter II.B.1 United States–China Economic and Trade Agreement.)*

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). During 2021, the TRIPS Council continued to consider a proposal for a waiver of certain provisions of the TRIPS Agreement in relation to prevention, containment, or treatment of COVID-19, and in May 2021, the United States announced its support for a waiver of intellectual property protections for COVID-19 vaccines. The United States also joined the consensus in the TRIPS Council to extend the moratorium on the initiation of non-violation and situation complaints under the TRIPS Agreement. The U.S. Government and a number of other countries maintained common positions on the subject of GIs. These positions aim to help ensure that overseas markets remain open to a wide array of U.S. agricultural exports. *(For further information, see Chapter IV.B.5 Council for Trade-Related Aspects of Intellectual Property Rights, Special Session.)*

## **F. Manufacturing and Trade**

### **Manufacturing Is a Key Driver of the U.S. Economy and U.S. Exports**

Manufacturing is a vital sector of the overall U.S. economy, with a gross domestic product (GDP) of \$2.4 trillion in 2021, comprising 11 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 sector employment was up 356,000 from December 2020 to December 2021, and the unemployment rate for

manufacturing workers in 2021 ranged between 5.8 percent in April to 2.8 percent in December. Average hourly earnings of manufacturing employees were \$29.70 in 2021, up from \$28.78 in 2020.

Manufacturing is a key driver of U.S. exports. U.S. manufacturing exports totaled \$1.4 trillion in 2021, and accounted for 80 percent of total U.S. goods exports to the world. The United States is the second largest country exporter of manufactured goods.

### **Supporting U.S. Manufacturing**

The U.S. Government has used a broad range of available trade policy tools to level the playing field and expand markets for U.S. manufactured goods exports in countries around the globe. In 2021, the Office of the U.S. Trade Representative (USTR) advanced American manufactured goods trade interests through active engagement in an array of trade policy initiatives and activities. Key activities to support U.S. manufacturing exports included actions in the following issue areas.

#### **Supply Chains**

The ongoing disruption of global supply chains due to the impacts of the COVID-19 pandemic has continued to strain U.S. manufacturing across many product sectors, highlighting the complexity of global supply chains for inputs and products critical to the United States. More resilient supply chains can protect the United States from shortages of critical products and encourage investments to maintain America's competitive edge and strengthen U.S. national security.

The issue of supply chain resiliency is a key priority for the Biden-Harris Administration, as evidenced by the [Executive Order \(EO\) 14017](#) on “America’s Supply Chains” that President Biden issued on February 24, 2021, to launch a comprehensive review of U.S. supply chains and direct federal departments and agencies to identify ways to secure U.S. supply chains against a wide range of risks and vulnerabilities.

The EO directed an immediate 100-day review across federal agencies to address vulnerabilities in the supply chains of four key products: (1) pharmaceuticals and active pharmaceutical ingredients; (2) critical materials; (3) semiconductors; and, (4) large capacity batteries. The review was completed in June 2021. Each sector report describes the weaknesses in the product supply chain and the vulnerabilities they pose for the United States, and proposes detailed actions to address them.

As a result of the 100-day review, USTR was directed to establish an inter-agency Supply Chain Trade Task Force: (a) “to identify unfair foreign trade practices that have eroded U.S. critical supply chains and to recommend trade actions to address such practices,” and (b) “to examine how existing U.S. trade agreements and future trade agreements and measures can help strengthen the United States and collective supply chain resilience.”

USTR began work with interagency partners to identify trade-related initiatives that can support the Administration’s principles for supply chain resilience: transparency; diversity, openness, and predictability; security; and sustainability. In addition, USTR began work with trading partners to develop approaches to mutually strengthen critical supply chains, including through existing free trade agreements, the United States–Japan Partnership on Trade, the U.S.–EU Trade and Technology Council, and other bilateral and regional trade initiatives.

#### **United States–Mexico–Canada Agreement**

The United States–Mexico–Canada Agreement (USMCA) entered into force on July 1, 2020, updating the provisions of the North American Free Trade Agreement (NAFTA) to reflect 21st century standards. The

USMCA provisions ensure that its benefits go to products genuinely made in the United States and elsewhere in North America, and to incentivize production in North America as well as specifically in the United States. For example, the USMCA contains newer, stricter rules of origin for automobiles and automotive parts that require greater North American content, including mandatory purchase requirements for North American steel and aluminum, and requirements to produce certain core parts and components within the region.

### **Bilateral Market Access Barriers**

Throughout 2021, USTR continued to address a broad range of manufactured goods market access barriers and non-tariff barriers through extensive engagement with trading partners, including through formal trade and investment framework agreement meetings, free trade agreement meetings, and various bilateral trade policy initiatives and activities. Among such activities in 2021 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 resulting from 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.

### **Excess Capacity in Key Industrial Sectors**

The industrial policies and subsidies of certain trading partners, particularly China, continue to distort global markets in key industry sectors, including steel and aluminum. These policies have adversely affected U.S. industry and workers as well as global trade. USTR continued 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 Steel Committee. In October 2021, the United States and the European Union announced their intention to negotiate future arrangements for trade in the steel and aluminum sectors that take account of both global non-market excess capacity as well as the carbon intensity of these industries.

### **Strong Enforcement**

Throughout all of these policy activities relating to manufacturing and trade, the U.S. Government aggressively stood 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. These efforts secured important agreements on Large Civil Aircraft with the European Union and the United Kingdom that will level the playing field for a major U.S. manufacturing sector and lay the basis for the United States to work more effectively with key trading partners to address the challenges that Chinese industrial policies pose in this sector. *(For further information, see Chapter II.A: Trade Enforcement Activities.)*

## **G. Trade and the Environment**

The United States continued to prioritize monitoring and enforcement of environmental obligations under existing free trade agreements (FTAs), as well as negotiating new commitments by trading partners in bilateral and multilateral fora. Throughout 2021, the United States continued to monitor Korea’s steady progress combating illegal, unreported, and unregulated (IUU) fishing, including through implementation of the amended Distant Water Fisheries Development Act and efforts to more effectively implement the Port State Measures Agreement. Additionally, the United States and Singapore met on December 3, 2021,

to review implementation of commitments under the United States–Singapore FTA Environment chapter. The United States also held meetings of the environment committees established under U.S. trade agreements to monitor and enforce the Environment Chapter obligations, including the inaugural Environment Committee meeting under the United States–Mexico–Canada Agreement (USMCA), and the Environmental Affairs Council with officials from Central American countries and the Dominican Republic. The United States also held discussions with other FTA partners such as Panama, Peru, Colombia, and Chile on pressing environmental issues.

The United States also continued to work with trading partners under respective trade and investment framework agreements (TIFAs) on a range of trade-related environmental issues such as combating climate change, illegal timber trade, wildlife trafficking, and IUU fishing, in particular with Ecuador, Fiji, Indonesia, Taiwan, Uruguay, and Vietnam.

At the World Trade Organization (WTO), the United States continued its leadership role in seeking a meaningful outcome in the multilateral negotiations to prohibit harmful fisheries subsidies. Additionally, on May 26, 2021, the United States put forward a proposal to ensure an outcome in the negotiations can contribute to Members’ efforts to highlight and address the use of forced labor on fishing vessels.

## **1. Free Trade Agreements and Bilateral Activities**

### **Free Trade Agreements**

The Office of the U.S. Trade Representative (USTR) secured concrete achievements supporting U.S. trade and environment objectives during 2021. USTR continued to engage with the Trade Policy Staff Committee (TPSC) agencies to monitor actions taken by U.S. FTA partners to implement FTA environment chapter obligations. This monitoring contributes to the U.S. Government’s ongoing efforts to ensure that U.S. trading partners comply with their FTA environmental obligations.

*For further discussion on free trade agreements, see Chapter I.A Free Trade Agreements in Force.*

### **United States–Mexico–Canada Agreement**

The USMCA modernizes the previous framework under the former North American Agreement on Environmental Cooperation (NAAEC) by bringing environmental obligations into the core of Chapter 24 of the USMCA, rather than in a side agreement, and by making the obligations fully enforceable under the USMCA’s dispute resolution provisions. Importantly, a breach of an environmental obligation is now presumed to affect trade and investment. The USMCA Environment Chapter includes the most comprehensive set of enforceable environmental obligations of any previous U.S. free trade agreement. 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 IUU fishing and harmful fisheries subsidies. The USMCA commits the three Parties 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. free trade agreement, the USMCA addresses other pressing environmental issues such as air quality and marine litter.

Full implementation of the USMCA continued to be a key USTR priority throughout 2021. In 2021, USTR’s Senior Trade Representative at the U.S. Embassy in Mexico City, Mexico worked closely with three Environment Attachés posted at the embassy to support and monitor implementation of the USMCA.

In June 2021, USTR, with its Mexican and Canadian counterparts, organized the inaugural meeting of the trilateral Environment Committee to review implementation of the USMCA Environment chapter. Parties provided updates on respective efforts to implement the Environment Chapter commitments and held an in-depth discussion on law enforcement cooperation to stem wildlife trafficking and trade in illegally harvested timber, and on opportunities to enhance collaboration going forward. The inaugural meeting also included a public session, which provided the Parties an opportunity to share progress on USMCA Environment Chapter implementation as well as receive questions and comments from public stakeholders.

Over the course of 2021, USTR held several meetings with the Government of Mexico to discuss challenges and opportunities for cooperation related to Mexico's fisheries enforcement capacity. USTR also continued to advance implementation of the USMCA's environment provisions through convening regular meetings of the Interagency Environment Committee for Monitoring and Enforcement to discuss, together with other U.S. Government agencies, issues related to monitoring and enforcement of Mexico's and Canada's USMCA environmental obligations. Throughout 2021, USTR leveraged its USMCA supplemental appropriations for environment monitoring and enforcement to strengthen relevant U.S. Government agencies' ability to deliver on their respective monitoring and enforcement mandates, to include providing additional resources that enhance U.S. intelligence and enforcement capacity; promote sustainable forest management and combat illegal logging; and, promote sustainable fisheries management and conservation of marine species.

*For further discussion on the United States–Mexico–Canada Agreement, see Chapter I.A.9 Mexico and Canada (USMCA).*

### **Dominican Republic–Central America–United States Free Trade Agreement**

The 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. In 2021, CAFTA–DR trade and environment officials met virtually numerous times to continue to advance the work of monitoring and implementation of the Environment Chapter obligations. These officials received presentations on implementation of cooperation programs and projects, and reviewed outcomes. The officials also received an update from the Organization for American States (OAS) on the report of monitoring of environmental cooperation activities. The Environmental Affairs Council (EAC) established under the CAFTA–DR met virtually in October 2021. During the EAC meeting, the Parties provided updates on respective progress to implement the Environment Chapter, including the modernization of electronic permitting systems and new platforms for environmental enforcement. The Parties also identified climate change as one of the most pressing environmental challenges that the Parties will work together to address. Additionally, the Parties received an update from the Secretariat for Environmental Matters (Secretariat) regarding active public submissions, as well as discussed achievements under the Environment Cooperation Program, noting the success of the program and its 15-year anniversary. A public session was held during the EAC meeting, providing an opportunity for the CAFTA–DR Parties to hear from and directly interact with members of the public regarding Environment Chapter implementation efforts.

Regarding public engagement, the Secretariat has received 46 submissions from the public on effective enforcement of environmental laws since its establishment in 2007. In 2021, the Secretariat received two submissions from the public alleging CAFTA–DR Parties' failures to effectively enforce their environmental laws, which are being reviewed by the Secretariat. The Secretariat also conducted outreach through virtual workshops to inform the public about this monitoring mechanism, reaching hundreds of people, including through legal clinics to promote participation in the Secretariat submissions mechanism.

The United States continued to provide capacity-building support to its CAFTA–DR partners. In 2021, the U.S. Government implemented trade-related environmental cooperation programs to strengthen CAFTA–DR countries’ implementation of the FTA environment obligations, such as enforcement of environmental laws, regulations, and policies in critical areas, including combating the illegal trade of wild flora and fauna, air quality, improving solid waste management, and promoting public participation. Many program activities continued in a virtual format due to the COVID-19 pandemic.

*For further discussion on the Dominican Republic–Central America–United States Free Trade Agreement, see Chapter I.A.3 Central America and the Dominican Republic (CAFTA–DR).*

### **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 (the Agreement) Environment Chapter and oversee the operation of the independent Secretariat for Environmental Enforcement Matters (Secretariat). The Secretariat is located in Bogotá, Colombia, and receives and considers submissions from the public on matters regarding enforcement of environmental laws pursuant to the Agreement. In 2021, the United States and Colombia worked with the Secretariat Executive Director to continue to strengthen its outreach plan, the website, and public dissemination of information in support of the Secretariat’s role. The Executive Director conducted virtual and in-person outreach to the public throughout Colombia to promote awareness of the Secretariat and the public submission mechanism in the Agreement. The United States and Colombia concluded negotiations on a Council Decision to govern hiring and management of Secretariat personnel and operations, and the Work Program for Environmental Cooperation under the United States–Colombia Environmental Cooperation Agreement to support Colombia’s implementation of its environmental obligations under the Agreement, including programs aimed at improving enforcement of environmental laws and combating illegal logging and illegal mining.

During the Free Trade Commission meeting in October 2021, the United States raised environment issues as a priority, noting the importance of full implementation of the Environment Chapter and a desire to continue strong collaboration with Colombia on a range of trade and environment issues. The United States and Colombia also agreed to hold an EAC meeting in 2022.

*For further discussion on the United States–Colombia Trade Promotion Agreement, see Chapter I.A.5 Colombia.*

### **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 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. In 2021, the Secretariat received three submissions. The Secretariat continued developing a factual record for one submission and reviewing the other.

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 United States–Panama Trade Promotion Agreement, including by supporting efforts to combat wildlife trafficking, strengthen CITES implementation, combat illegal logging, improve forest, air quality, and solid waste management and promote public participation.

*For further discussion on the United States–Panama Trade Promotion Agreement, see Chapter I.A.12 Panama.*

### **United States–Peru Trade Promotion Agreement**

The United States continued to prioritize monitoring and enforcement of environmental commitments in the United States–Peru Trade Promotion Agreement and its landmark Forest Annex. The United States continued to engage closely with Peru to combat illegal logging and work toward improving forest sector governance.

In addition, the United States and Peru held regular bilateral discussions on the implementation of obligations under the Agreement’s Environment Chapter and Forest Annex, including discussions related to the Secretariat for Submissions on Environmental Enforcement Matters (Secretariat) established in Article 18.8 of the Agreement. The Secretariat continued developing a factual record concerning a public submission alleging a failure to effectively enforce environmental laws. In September, the United States and Peru undertook a process to select a new Executive Director of the Secretariat. The new Executive Director was selected in December 2021 and will serve a term of two years beginning in early 2022.

*For further discussion on the United States–Peru Trade Promotion Agreement, see Chapter I.A.13 Peru.*

### **United States–Chile Free Trade Agreement**

The United States continued to work closely with Chile to monitor implementation of the United States–Chile Free Trade Agreement Environment Chapter and implement trade-related environmental cooperation activities, including on fisheries management, combating wildlife trafficking, and strengthening protected area management. The United States and Chile concluded negotiations for the 2021-2024 Work Program for Environmental Cooperation under the United States–Chile Environmental Cooperation Agreement to support Chile’s implementation of its environmental obligations under the FTA.

*For further discussion on the United States–Chile Free Trade Agreement, see Chapter I.A.4 Chile.*

### **United States–Korea Free Trade Agreement**

The United States and Korea continued efforts to monitor and enforce implementation of the United States–Korea Free Trade Agreement (KORUS) Environment Chapter during 2021. In November 2021, the two countries held a meeting of the KORUS Joint Committee to review implementation of the Agreement and to address areas of concern. The United States and Korea discussed the importance of using trade to enhance environmental protection, including addressing climate change, and ensuring economic growth is environmentally sustainable. The United States continued to receive updates throughout 2021 on Korea’s steady progress combating IUU fishing, including through implementation of the amended Distant Water Fisheries Development Act and efforts to more effectively implement the Port State Measures Agreement.

*For further discussion on the United States–Korea Free Trade Agreement, see Chapter I.A.8 Korea (KORUS).*

### **United States–Singapore Free Trade Agreement**

On December 3, 2021, the United States and Singapore held a meeting to review implementation of the United States–Singapore Free Trade Agreement Environment Chapter. During the meeting, the United States and Singapore also discussed trade and environmental priorities and areas for future cooperation, including promoting circular economy and “green economy”, and combating wildlife trafficking. The

United States and Singapore also negotiated a new Plan of Action for Environmental Cooperation under their Memorandum of Intent on Environmental Cooperation that will be approved in 2022.

*For further discussion on the United States–Singapore Free Trade Agreement, see Chapter I.A.14 Singapore.*

### **United States–Uruguay Trade and Investment Framework Agreement**

In August 2021, during the Trade and Investment Council of the United States–Uruguay TIFA meeting, the United States and Uruguay had a robust discussion of trade and environment priorities, including with respect to climate change, fisheries, and forestry issues.

*For further discussion on the United States–Uruguay Trade and Investment Framework Agreement, see Chapter I.B.1 The Americas.*

### **United States–Taiwan Trade and Investment Framework Agreement**

In June 2021, the United States–Taiwan TIFA Council, which meets under the auspices of the American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office in the United States (TECRO), held a virtual meeting. The United States and Taiwan discussed key trade and environment priorities, including the WTO fisheries subsidies negotiations, the importance of combating wildlife trafficking, and climate considerations for trade. The United States and Taiwan agreed to continue to work together on these issues of mutual interest.

*For further discussion on the United States–Taiwan Trade and Investment Framework Agreement, see Chapter I.B.4 China, Hong Kong, Taiwan, Mongolia.*

### **United States–Vietnam Agreement on Illegal Logging and Timber Trade**

In October 2020, USTR initiated an investigation, pursuant to section 302(b)(1)(A) of the Trade Act of 1974, of Vietnam’s acts, policies, and practices related to the import and use of timber that is illegally harvested or traded. On October 1, 2021, the United States and Vietnam reached an agreement that addressed U.S. concerns in the investigation. The Agreement secures commitments that will help keep illegally harvested or traded timber out of the supply chain and protect the environment and natural resources. Pursuant to the Agreement, bilateral engagement on this issue will continue through the Timber Working Group under the United States–Vietnam Trade and Investment Framework Agreement.

*For further discussion on the investigation, see Chapter II.B Section 301.*

## **2. Regional Engagement and Multilateral Fora**

### **Regional Engagement**

In the Asia–Pacific Economic Cooperation (APEC) forum, the United States continued to work with other Asia-Pacific economies through the Experts Group on Illegal Logging and Associated Trade to improve the capacity of APEC economies to combat illegal logging and associated trade and promote the trade in legally harvested forest products within the APEC region. Under the APEC Committee on Trade and Investment’s Market Access Group, APEC economies also agreed to a technical update for reference purposes of the Environmental Goods List in terms of Harmonized System (HS) classifications from HS2012 to HS2017. Within the Oceans and Fisheries Working Group, the United States supported

implementation of the Port State Measures Agreement, and worked to identify areas of convergence and best practices to combat IUU fishing, including through APEC's Roadmap on Combating IUU Fishing. In addition, work continued on the U.S.-led Recyclable Materials Policy Program, which aims to develop the capacity of APEC economies to identify and frame domestic policies that promote solid waste management and recycling infrastructure. The APEC Group on Services compiled and endorsed the APEC Reference List of Environmental and Environmentally Related Services, a non-exhaustive, non-binding reference list of such services. This voluntary and evolving reference list is intended to be used as a resource for future discussions on environmental services.

## **WTO and Other Multilateral Engagement**

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. In addition to pursuing robust disciplines on subsidies for IUU fishing, subsidies for fishing on overfished stocks, subsidies contingent on fishing outside a Member's jurisdiction, and subsidies to vessels not flying the Member's own flag, in May 2021, the United States put forward a proposal to ensure an outcome in the negotiations can contribute to Members' efforts to highlight and address the use of forced labor on fishing vessels. The proposal calls for: (1) the inclusion of effective disciplines on harmful subsidies to fishing activities that may be associated with the use of forced labor; (2) the explicit recognition of this problem and the need to eliminate it; and, (3) transparency with respect to vessels or operators engaged in the use of forced labor. The United States continued to constructively engage to conclude the negotiations with a meaningful outcome that protects the ocean and fisheries resources and supports U.S. fishers and workers.

Additionally, the United States continued to advocate for a trade facilitative approach to circular economy, and sustainable materials management and resource efficiency during meetings of the WTO Committee on Trade and Environment, the Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (IDP), and the WTO Trade and Environmental Sustainability Structured Discussions (TESSD). Through this engagement, the United States continued to press for a circular economy model that improves recycling and reuse infrastructure capacity as well as promotes trade in recoverable and recyclable commodities, rather than pursuing import restrictions or other regulatory measures that prohibit the flow of trade in commodity-grade scrap materials. The United States also formally joined the WTO TESSD initiative in November 2021, noting its potential to serve as an incubator of new and innovative approaches to tackle trade and environmental challenges, such as climate change.

*For further discussion on the WTO Committee on Trade and Environment, see Chapter IV.J.1 Committee on Trade and Environment.*

In 2021, USTR participated in the implementation of a number of multilateral environmental agreements and multilateral initiatives to ensure consistency with international trade obligations, including CITES, the Strategic Approach to International Chemicals Management, and relevant regional fisheries management organizations. For example, in October 2021, USTR participated in the 40th meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), where discussions included review of Parties' compliance with conservation measures and monitoring implementation of the Dissostichus Catch Documentation Scheme. This scheme is a tool for tracking toothfish from the point of landing through the trade cycle, determining if toothfish were caught in a manner consistent with CCAMLR conservation measures, and preventing illegally caught toothfish from entering the market.

## H. Trade and Labor

In 2021, the United States launched a worker-centered trade policy, bringing labor issues and topics important to working people to the forefront of trade policy. The Office of the U.S. Trade Representative (USTR) engaged with governments around the world to recalibrate trade policy to seek to ensure that real people can realize the benefits of U.S. trade policy. In addition, the United States increased stakeholder consultation to ensure workers' voices are heard and considered throughout the policy-making process.

Under this new policy approach, the United States promoted respect for labor rights as part of engagement with trade partners in 2021 through the formal mechanisms of trade agreements and trade preference programs, as well as through country-specific initiatives, capacity building, and technical assistance.

Throughout 2021, labor issues were a central part of trade and investment negotiations and dialogue with African, Asia-Pacific, South and Central Asian, North, Central, and South American, Caribbean, Middle Eastern, and European countries, including through trade agreement mechanisms, trade and investment framework agreements (TIFAs), and regional and multilateral fora, such as the International Labor Organization (ILO), the Asia-Pacific Economic Cooperation (APEC), the Association of Southeast Asian Nations (ASEAN), the Group of Seven (G7), and the Organization for Economic Cooperation and Development (OECD), and the World Trade Organization (WTO).

The United States used available trade policy tools to hold trading partners accountable for protecting labor rights, including by twice invoking the Rapid Response Mechanism under the United States–Mexico–Canada Agreement (USMCA) in 2021, which resulted in favorable and timely outcomes for workers trying to exercise their labor rights.

Through dialogues in 2021 under several TIFAs and related bilateral mechanisms, the United States brought worker issues to the forefront, including forming labor working groups under the TIFA with Taiwan and the Trade and Investment Cooperation Agreement (TICA) with Ukraine; discussing the importance of high labor standards under the TIFA with Uruguay, the Trade and Investment Council Agreement (TIC) with Ecuador, the Joint Commercial Commission (JCC) with Moldova, and the Central Asian TIFA; and emphasizing the worker-centered trade policy during the Trade Policy Forum with India. The United States also included significant new labor commitments in the U.S.–EU Trade and Technology Council.

The United States played a leadership role in 2021 in using trade policy to address forced labor worldwide, including in global supply chains. These actions to combat forced labor are part of the U.S. National Action Plan to Combat Human Trafficking, which was released in December 2021. The United States engaged and worked with allies and trade partners to promote a fair, rules-based international trading system that respects workers' rights and affirms that there is no place for forced labor, including state-sponsored forced labor. On May 18, 2021, at the first meeting of the USMCA Free Trade Commission, the United States, Mexico, and Canada reaffirmed the importance of prohibiting imports of goods made with forced labor. On May 26, 2021, in the context of fisheries subsidies negotiations at the WTO, the United States submitted a proposal to bring attention to the critical issue of forced labor on fishing vessels. On July 13, 2021, the United States issued an advisory for businesses whose supply chains include components in Xinjiang, where Uyghurs and other minority groups are subject to forced labor. In June 2021, President Biden pushed for the inclusion of forced labor in G7 Leaders' Statement, which paved the way for U.S. Trade Representative Tai to negotiate the October 2021 Trade Ministers' Forced Labor Statement that included significant commitments to work together to protect individuals from forced labor and mitigate the risks of forced labor in global supply chains. On December 23, 2021, President Biden signed into law the Uyghur Forced Labor Prevention Act which, among other things, establishes a rebuttable presumption that the importation of goods from China's Xinjiang Uyghur Autonomous Region are prohibited under section 307 of the Tariff

Act of 1930. The U.S. Forced Labor Enforcement Task Force and the Forced Labor Interagency Working Group, both of which USTR is a member, also continued to proactively and collaboratively work to set up operational processes, provide input to congressionally-mandated reports, and monitor the prohibition of goods produced by forced labor in support of trade enforcement pursuant to Section 307 of the Tariff Act of 1930.

The U.S. Government 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.

## 1. Free Trade Agreements and Bilateral Activities

### 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 U.S. Department of Labor's (DOL) Bureau of International Labor Affairs (ILAB). For additional information on 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 Bahrain, Colombia, Jordan, Korea, Mexico (USMCA), Singapore, and the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA–DR) countries.

*For further discussion on free trade agreements, see Chapter I.A Free Trade Agreements in Force.*

Examples of U.S. Government engagement in 2021 on labor issues under free trade agreements include:

- The United States has maintained significant, continual engagement with Mexico related to labor issues covered under the USMCA. The U.S. Government initiated two actions under the innovative USMCA Rapid Response Mechanism, securing significant, tangible improvements for workers within months. The United States also hosted a Free Trade Commission meeting with Mexico and Canada, which covered labor issues, as well as the first Labor Council meeting. In 2021, USTR's Senior Trade Representative at the U.S. Embassy in Mexico City, Mexico worked closely with two Labor Attachés posted at the embassy and another Labor Attaché posted at the U.S. Consulate General in Monterrey, Mexico to support and monitor implementation of the USMCA. All of them monitor and engage on labor issues regularly. (*For further information, see Chapter I.A.9 Mexico and Canada (USMCA)*)
- U.S. Government officials met multiple times in 2021 with Colombian Government officials and stakeholders to follow up on the labor commitments under the United States–Colombia Trade Promotion Agreement, including with respect to commitments by the Government of Colombia to improve labor law enforcement and protect the rights of freedom of association and collective bargaining for workers that are subcontracted or hired under temporary contracts. Of note, the two countries focused on labor issues during a Free Trade Commission meeting in October 2021. (*For*

*further information, see Chapter I.A.5 Colombia.)*

- U.S. Government officials met with Korean Government officials under the United States–Korea Free Trade Agreement (KORUS) during the meeting of the Joint Committee in November 2021, which included a discussion on Korea’s compliance with its labor rights obligations. U.S. Government officials also met with Korea’s Ministry of Employment and Labor. Those discussions included the Biden-Harris Administration’s worker-centered trade policy and the importance of promoting and protecting internationally recognized worker rights, including freedom of association, for all workers and union leaders. The United States and Korea reaffirmed their commitment to engaging on workers’ rights and agreed to hold a KORUS Labor Affairs Council meeting in 2022. *(For further information, see Chapter I.A.8 Korea (KORUS).*
- U.S. Government officials continued to engage with Honduran Government officials to discuss Honduras’ outstanding commitments under the United States–Honduras Labor Rights Monitoring and Action Plan, with a particular emphasis on fine collection and freedom of association. *(For further information, see Chapter I.A.3 Central America and the Dominican Republic (CAFTA–DR).)*
- U.S. Government officials continued to work closely with Jordanian Government officials to monitor implementation of labor reforms planned under the auspices of the United States–Jordan Free Trade Agreement. *(For further information, see Chapter I.A.7 Jordan.)*
- U.S. Government officials met with Singaporean Government officials, including during the October 2021 United States–Singapore Free Trade Agreement Joint Committee meeting, during which both parties agreed to work together on shared areas of interest, including labor.
- U.S. Government officials discussed labor issues, including ongoing concerns related to freedom of association and employment discrimination, with Bahraini Government officials. *(For further information, see Chapter I.A.2 Bahrain.)*

### **United States–Mexico–Canada Agreement**

As part of the implementation of the USMCA in 2021, USTR continued to work closely with Mexican trade and labor officials to ensure effective implementation of landmark constitutional and legislative reforms, which mandate the creation of new labor courts and overhaul Mexico’s system of labor justice administration. The U.S. Government triggered actions under the USMCA Rapid Response Mechanism twice in 2021, demonstrating the U.S. commitment to enforcing the USMCA and showing that the mechanism works, as intended, to bring rapid, significant wins for workers on the ground. One of the actions was in response to a petition, the other was the first time the U.S. Government has self-initiated a labor-related enforcement action under a free trade agreement.

In order to ensure adequate monitoring and enforcement resources for these labor obligations, the United States–Mexico–Canada Agreement Implementation Act (P.L. 116-113) (USMCA Implementation Act) allocates \$30 million each over four years to USTR and to the DOL for enforcement, as well as for the posting of up to five Labor Attachés to the U.S. Embassy and U.S. Consulates in Mexico. Three of the five Labor Attachés already are posted and work closely with USTR’s Senior Trade Representative as well as State Department officials at the U.S. Embassy in Mexico City.

The new resources also supported the creation and operation of an Interagency Labor Committee for Monitoring and Enforcement (the Committee) to coordinate monitoring and request enforcement of

USMCA’s labor provisions, with a particular focus on Mexico’s historic labor reform process. The Committee, co-chaired by the U.S. Trade Representative and the Secretary of Labor, was established in April 2020 and met regularly to review labor rights issues in Mexico. Pursuant to the USMCA Implementation Act, the Committee prepared reports every 180 days in 2021 and transmitted them to the Senate Finance Committee and the House Committee on Ways and Means. In addition, the USMCA Implementation Act allocated \$180 million to the DOL for technical assistance programs to support reforms of the labor justice system in Mexico, including grants to support worker-focused capacity building, combat forced labor and child labor, and to reduce workplace discrimination in Mexico.

USTR also participated in discussions between officials from the U.S. Department of Homeland Security Customs and Border Protection and Mexican customs agencies on the provisions requiring USMCA countries to implement measures to prohibit trade in goods produced by forced labor. In 2021, the United States continued to monitor Mexico’s labor reform effort and the implementation of the 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 further discussion on the United States–Mexico–Canada Agreement, see Chapter I.A.9 Mexico and Canada (USMCA).*

### **Dominican Republic–Central America–United States Free Trade Agreement**

The United States and the Coordinators for the Dominican Republic–Central America–United States Free Trade Agreement (CAFTA–DR) countries discussed strengthening worker rights and labor protections to foster inclusive economic, trade and investment opportunities during a September 2021 meeting. In addition, the United States continued to monitor and assess progress toward addressing the labor concerns in the Dominican Republic and Honduras outlined in the [2013 DOL report](#) and [2015 DOL report](#), respectively, in response to submissions from the public under the CAFTA–DR.

The United States engaged in discussions with Dominican Republic officials and stakeholders on the recommendations in the [2013 DOL report](#) regarding worker rights in the Dominican Republic sugar sector and the need for improving labor inspections. The United States continued to work with the Dominican Republic to make progress on these issues during 2021.

The United States and Honduras signed the United States–Honduras Labor Rights 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. The Honduran Government took some additional steps to implement the MAP in 2021, and the United States continues to encourage Honduras to resolve any ongoing issues, including those related to fine collection and freedom of association in emblematic cases.

*For further discussion on the Dominican Republic–Central America–United States Free Trade Agreement, see Chapter I.A.3 Central America and the Dominican Republic (CAFTA–DR).*

### **United States–Colombia Trade Promotion Agreement**

In 2021, the United States continued to work closely with Colombia to follow up on the DOL’s 2017 report on a 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 recommended undertaking consultations between the contact points designated under

the Labor Chapter on the concerns and recommendations raised in the report, including with respect to labor inspections and improving labor law enforcement.

In October 2021, the DOL published its [second periodic review](#) of the 2017 DOL report highlighting challenges that remain in implementing the original report's recommendation, and the United States engaged on these issues at a subsequent Free Trade Commission meeting that month and during additional meetings in Bogota in November 2021. The U.S. Government continued to engage closely with the Government of Colombia to press for continued progress on labor rights issues.

*For further discussion on the United States–Colombia Trade Promotion Agreement, see Chapter I.A.5 Colombia.*

### **United States–Peru Trade Promotion Agreement**

The United States continued to engage with the Government of Peru in 2021 on the issues identified in the March [2016 DOL report](#) in response to a submission under the United States–Peru Trade Promotion Agreement. The 2016 DOL report had 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.

*For further discussion on the United States–Peru Trade Promotion Agreement, see Chapter I.A.13 Peru.*

### **Other Bilateral Engagement**

The United States engaged with several countries in 2021 on labor issues in the context of trade and investment framework (TIFA) meetings and other bilateral trade mechanisms. In October 2021, the United States hosted a Labor Working Group meeting under the Trade and Investment Council with Ecuador in which the governments discussed the Biden-Harris Administration's worker-centered trade policy, labor law enforcement, recent law reforms in Ecuador, freedom of association, and child labor. The United States launched a Labor Working Group under both the Ukraine TICA and the Taiwan TIFA. During 2021, the United States 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 during TIFA meetings, or similar bilateral discussions, with Cambodia, Central Asia, Moldova, Ukraine, and Uruguay. During the Trade Policy Forum meeting with India, the United States emphasized the importance of trade for advancing opportunities and welfare for workers. USTR officials also raised worker rights during other bilateral meetings with officials from Indonesia, the Philippines, and Thailand.

In 2021, the United States continued to engage with the Government of Vietnam on labor reform following its 2019 adoption of an amended Labor Code, which included provisions to allow for the formation of independent unions in the country for the first time. In November 2021, the United States raised these issues during the annual Human Rights Dialogue with Vietnam. Engagement included review and comments on Vietnam's proposed regulatory framework and other labor reform proposals, as well as promotion of 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, the DOL is funding a \$5.1 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 continued as Vietnam drafts and issues implementing regulations.

USTR and the Association of Southeast Asian Nations (ASEAN) organized the first United States–ASEAN Trade and Labor Dialogue in February 2021. The dialogue focused on capacity building for ASEAN

officials around the integration of labor commitments in trade agreements. Based on the success of the first dialogue, a second dialogue for 2022 was agreed to at the 2021 ASEAN Economic Ministers–United States Trade Representative Consultations. USTR continued to support U.S. Government efforts to address forced labor associated with illegal, unreported, and unregulated fishing, including in the context of work with ASEAN governments, industry, and other stakeholders.

## **2. Preference Programs**

U.S. trade preference programs, including the Generalized System of Preferences (GSP), African 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.

*For further discussion of the Nepal Trade Preference Program, see Chapter I.B.7 South and Central Asia.*

### **Generalized System of Preferences**

In 2021, USTR and the Trade Policy Staff Committee Subcommittee on GSP continued to engage with foreign governments and stakeholders on existing country eligibility reviews to monitor countries' compliance with the GSP eligibility criteria. For example, the U.S. Government met with Kazakhstan several times to discuss the implementation of Kazakhstan's amended Trade Union Law, as well as concerns about the ability of independent trade unions to register and continued restrictions on independent labor leaders. The U.S. Government also engaged with stakeholders, foreign government officials, and international organizations regarding the country practice reviews of Azerbaijan and Zimbabwe, particularly on issues related to freedom of association, collective bargaining, and labor law enforcement.

*For further discussion on the Generalized System of Preferences program, see Chapter II.E.1 Generalized System of Preferences.*

### **African Growth and Opportunity Act**

The United States continued to engage with African countries on AGOA worker rights criteria through the AGOA annual eligibility review and bilateral and multilateral fora. In October 2021, the U.S. Government hosted the Virtual AGOA Ministerial Meeting that underscored, among other things, the importance of worker rights and the crafting of inclusive trade and labor policies. The U.S. Government, in partnership with Freedom House and Solidarity Center, hosted the 2021 AGOA Civil Society Virtual Forum that discussed how civil society and labor are critical partners for African trade and investment. In addition, the U.S. Government engaged with the ILO on labor-related issues in various AGOA countries during the year.

*For further discussion on the African Growth and Opportunity Act, see Chapter II.E.2 African Growth and Opportunity Act.*

### **Other Preference Programs**

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. The DOL, in consultation with USTR, is charged with publicly identifying noncompliant producers on a biennial basis and providing assistance to such producers to comply with the standards. In addition, the DOL provides support to at-risk producers to help ensure that they do not fall out of compliance. During 2021, the DOL continued to monitor producer-level compliance

with worker rights criteria and to follow up with producers to address concerns related to worker rights criteria to ensure continued compliance with HOPE II labor requirements. The United States also continued to work closely with the Government of Haiti and the ILO 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 [2021 USTR Annual Report on the Implementation of the TAICNAR Program](#).

### **3. International Organizations**

In 2021, 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 2021, USTR met with ILO experts to discuss the implementation of labor standards in trade partner countries and to discuss broader labor themes such as the labor market impacts of the COVID-19 pandemic, labor inspection, gender, forced labor, global supply chains, and the ILO Better Work program.

The United States also continued to promote labor rights as one of the topics to strengthen economic integration and build high-quality trade agreements in the Asia-Pacific region. In the Asia-Pacific Economic Cooperation (APEC), the United States continued to support inclusion of labor issues by APEC economies in the next generation of trade agreements. To support this goal, USTR proposed a project that aims to examine labor-related technical assistance and capacity building provisions in regional trade arrangements and free trade agreements. The United States also supported efforts to raise labor standards and provide for social protection for economic development, including the elimination of the worst forms of child labor, through participation in APEC's Labor and Social Protection Network under the Human Resources Development Working Group.

In June 2021, the United States brought labor issues into the trade track of the Organization for Economic Cooperation and Development (OECD) Ministerial, chairing a session on trade and labor. The session focused on countries' experiences linking trade and labor commitments and opened the floor for discussion of ways to bring labor issues into the WTO.

The United States also worked through multilateral organizations to make clear that there is no place for forced labor in the global trading system. As discussed above, the United States submitted a proposal to the WTO to bring attention to the use of forced labor on fishing vessels. At the June 2021 G7 Leaders' Summit in Cornwall, President Biden made clear that the United States will prioritize the global effort to combat forced labor, including through trade. In October 2021, in addition to the G7 Trade Ministers' Communiqué, the United States joined in a stand-alone G7 Trade Ministers' Forced Labor Statement on international standards to combat forced labor in global supply chains which reflects key elements of the U.S. Government toolkit to combat forced labor that has been cultivated over the last 25 years to prevent this harmful practice, as well as to protect and provide remedy for those affected by forced labor.

### **4. Trade Adjustment Assistance**

#### **Overview and Assistance for Workers**

The Trade Adjustment Assistance for Workers Program (TAA Program) is authorized under Chapter 2 of Title II of the Trade Act of 1974, as amended. The TAA Program provides assistance to workers who have

been adversely affected by foreign trade. 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), Alternative or Readjustment Trade Adjustment Allowance (ATAA/RTAA) wage supplements for older workers, and a health coverage tax credit for eligible TAA recipients.

In 2021, \$441 million was allocated to State Governments to fund aspects of the TAA Program. This included approximately \$370 million for “Training and Other Activities,” which includes funds for training, job search allowances, relocation allowances, employment and case management services, and related state administration; approximately \$58 million for TRA benefits; and approximately \$13 million 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). Two 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 trade adjustment assistance, the DOL will issue a certification. In 2021, an estimated 107,454 workers became eligible for the program.

The DOL administers the TAA Program through the Employment and Training Administration, with State Governments administering trade adjustment assistance benefits on behalf of the United States for members of trade-adjustment-assistance-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 (1-877-872-5627). Most benefits and services have specific individual eligibility criteria that must be met, such as prior work history, unemployment insurance eligibility, and individual skill levels.

### **Trade Adjustment Assistance for Farmers**

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 FY 2021. However, Congress did not appropriate funding for new participants in FY 2021. As a result, the U.S. Department of Agriculture did not accept any new petitions or applications for benefits in FY 2021.

### **Trade Assistance for Firms**

The U.S. Economic Development Administration (EDA) Trade Adjustment Assistance for Firms Program (TAAF Program), which provides for trade adjustment assistance for firms and industries, is authorized by Chapters 3 and 5 of Title II of the Trade Act of 1974, as amended. Title IV of the Trade Preferences Extension Act authorized the TAAF Program through June 30, 2022.

The TAAF Program provides technical assistance to help import-impacted U.S. firms develop and implement projects to regain global competitiveness, expand markets, strengthen operations, and increase profitability, thereby increasing U.S. jobs. The Secretary of Commerce is responsible for administering the

TAAF Program and has delegated the statutory authority and responsibility to EDA. EDA's regulations implementing the TAAF Program are codified at 13 CFR Part 315 and available on [EDA's website](#).

In FY 2021, EDA awarded a total of \$13.5 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 2021, EDA certified 117 petitions and approved 102 adjustments.

For additional information (including eligibility criteria and application process), see the [EDA's website](#).

## **I. Trade Capacity Building**

Historically, the United States has provided training and technical assistance to help developing countries reap the benefits of international trade. 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 while promoting economic growth and alleviation of poverty. This section reports on these efforts.

### **1. The Enhanced Integrated Framework**

The Enhanced Integrated Framework (EIF) is a technical assistance, multi-donor trust fund 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), the World Bank Group, the International Monetary Fund (IMF), the United Nations Conference on Trade Development (UNCTAD), the United Nations Development Program (UNDP), United Nations Industrial Development Organization (UNIDO), the United Nations Office for Project Services (UNOPS), the World Tourism Organization (UNWTO), and the International Trade Center (ITC) as a joint agency of the WTO and UNCTAD. The EIF 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 identified priority reforms, 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.

Phase Two of the EIF (2016–2022), covers 48 countries with the goal to integrate trade into their development plans, assist micro, small and medium-sized enterprises (MSMEs) to integrate into global trade, and help countries leverage technology to enhance exports. Phase Two is intended to produce a more dynamic and results-driven outcome, demonstrating increased efficiency, effectiveness, sustainability, and value for money. The United States has supported the EIF primarily through complementary bilateral assistance to LDC countries by the U.S. Agency for International Development (USAID). With Phase Two of the EIF program coming to an end in 2022, an external evaluation began and donors continued informal discussions on the future of the program.

### **2. U.S. Trade-Related Assistance under the World Trade Organization Framework**

The United States 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 \$21 million since 2001.

### ***WTO's Aid-for-Trade Initiative***

The Sixth Ministerial Declaration in 2005 in Hong Kong, China 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.

### ***The Standards and Trade Development Facility***

The Standards and Trade Development Facility (STDF) is a global partnership whose overall goal is to promote the increased capacity of developing countries to implement international sanitary and phytosanitary (SPS) standards, guidelines and recommendations and hence improve their ability to gain and maintain access to markets. The STDF Working Group, which reviews and approves the STDF's work program and funding requests, and oversees operation of the STDF Secretariat. The United States, along with other donor countries and international organizations, participates in the STDF Working Group. Other international organizations include: the United Nations Food and Agriculture Organization (FAO), the World Organization for Animal Health (OIE), the World Bank Group, the World Health Organization (WHO), the WTO, and the Codex Alimentarius and the International Plant Protection Convention (IPPC) 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 more than 160 projects and project preparation grants across Africa, Asia-Pacific, and Latin America and the Caribbean, totaling more than \$70.5 million. In 2020-2021, 68 percent of STDF funded activities benefitted least-developed countries and other low-income countries. The STDF organized 40 events attended by approximately 3,400 SPS stakeholders. In 2021, the STDF raised \$5.9 million in donors' contributions, which was below the target of \$7 million per year. The United States has supported the STDF primarily through the U.S. Department of Agriculture (USDA) and the Department of Health and Human Services Food and Drug Administration (FDA), as well as the U.S. Agency for International Development (USAID).

The STDF's SPS capacity building complements broader U.S. Government trade capacity building and SPS technical assistance spanning from training on electronic certification, how to use evidence to prioritize SPS investments (P-IMA), and how to implement good regulatory practices (GRP). The United States regularly reports SPS capacity building activities to the WTO through the WTO SPS Committee.

*For further discussion on the WTO Sanitary and Phytosanitary Committee, see Chapter IV.E.3 Committee on the Application of Sanitary and Phytosanitary Measures.*

### ***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 for comprehensive implementation 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. During

the period 2019 through 2021, USAID supported more than 20 countries in implementing recommendations from 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, and Vietnam. Direct assistance in support of simplifying customs procedures also was provided in countries such as Cote d'Ivoire, 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 (the Alliance) was launched on December 17, 2015, during the Tenth Ministerial Conference of the WTO in Nairobi, Kenya, as a unique, multi-stakeholder platform that leverages business and development expertise for commercially meaningful reforms. The United States catalyzed the creation of this public-private partnership and was a founding donor, joined by the Governments of Canada, Denmark, and Germany. 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. During 2021, the Alliance was implementing 32 projects in 21 countries with an additional 26 projects in the scoping phase of development. Geographically, 48 percent of these projects were in Sub-Saharan Africa, 19 percent in East Asia Pacific, 15 percent in the Middle East and North Africa, 13 percent Latin America and the Caribbean, and 6 percent in South Asia.

### ***WTO Accessions***

*For a discussion on technical assistance during the WTO accession process, see Chapter IV.J.6 Accessions to the World Trade Organization.*

## **3. Trade Capacity Building Initiatives for Africa**

Through bilateral and multilateral channels, the United States has invested or obligated more than \$7 billion in trade-related projects in sub-Saharan Africa since 2001 to spur economic growth and alleviate poverty.

### ***The African Continental Free Trade Area***

Numerous U.S. Government agencies have provided targeted technical assistance in support of the African Continental Free Trade Area (AfCFTA). USAID and the American National Standards Institute sponsored a technical advisor who supported the African Union Commission until September 2021 in its preparations to implement the Technical Barriers to Trade (TBT) Annex of the AfCFTA Goods Protocol. Through bilateral and multilateral channels, the United States has invested or obligated more than \$7 billion in trade-related projects in sub-Saharan Africa since 2001 to spur economic growth and alleviate poverty.

The U.S. Government continued advancing the Prosper Africa initiative, the goal of which is to substantially increase two-way trade and investment between the United States and Africa.

In 2021, USDA continued supporting an embedded SPS Advisor at the African Union Commission to guide the African Union's efforts to implement the SPS Policy Framework, a document intended to guide Member States on the SPS Annex of AfCFTA; reduce barriers to cross border trade, and better coordinate capacity building and policy harmonization under the AfCFTA. In addition, USDA actively participated in the AU's

Working Group tasked to draft the African Union Continental Food Safety Strategy and Plant Health Strategy, which was reviewed by the AU's Specialized Technical Committee in December 2021.

#### **4. Free Trade Agreements**

In addition to the WTO programs noted in III.I.2 above, the United States has helped U.S. FTA partners implement FTA commitments and reap the benefits of such agreements over the long term through TCB working groups and other FTA-related projects. USAID and USDA, along with a number of other U.S. Government agencies, actively participate in these FTA working groups on TCB so that identified TCB needs can be quickly and efficiently incorporated into ongoing regional and country assistance programs. The FTA working groups 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 further discussion, see the individual country sections in Chapter I.A, regional sections in Chapter I.B, environment in Chapter III.G.1, and labor in Chapter III.H.1.*

#### **5. Standards Alliance**

The Standards Alliance is a public-private partnership between USAID and the American National Standards Institute (ANSI), which is the official U.S. representative to the International Organization for Standardization (ISO). The goal of this partnership is to build capacity among developing countries to implement the WTO Agreement on Technical Barriers to Trade (TBT Agreement). Priority areas of intervention in developing countries are shaped through an interagency process guided by USTR and USAID and include 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.

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 consultation with Trade Policy Staff Committee (TPSC) 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.

Phase 2 (2019-2024) of the Standards Alliance program commits funds to promote regulatory convergence in the context of the COVID-19 pandemic, good regulatory practice, and the adoption of international standards for medical devices while enhancing the critical role of standards and conformity assessment in supporting public health and safety. Ultimately, the goal is to establish an efficient medical device regulatory environment and framework that will facilitate the response to the COVID-19 pandemic and diminish technical barriers to trade, thus promoting the exportation of quality U.S. medical devices.

As of December 2021, under Phase 2, the Standards Alliance has organized 25 events, attended by nearly 10,000 participants. Since its inception, participants from 27 countries and regional organizations have benefited from Standard Alliance activities.

Highlights of the program’s activities in 2021 include:

- Implementation of the COVID-19 Medical Device Regulatory Convergence (MDRC) project in Brazil, Colombia, Ghana, Indonesia, Kenya, Mexico, Peru, South Africa, and Vietnam to support countries in their response to the COVID-19 pandemic and the adoption of international standards for medical devices while enhancing the critical role of standards and conformity assessment in supporting public health and safety;
- Training for water utility managers to improve management and performance and training for regulators, operators and manufacturers to strengthen water quality infrastructure;
- Organization of a ten-part webinar series on international best practices for cosmetics standards with the African Organization for Standardization (ARSO) to support standards harmonization, leading to good regulatory practices and safer products for citizens;
- Completion of a three-part training pilot program to implement ISO 37101: Sustainable City Planning in Cote d’Ivoire; and
- Support for the harmonization of renewable technologies, clean fuel, energy efficiency, and petroleum standards in West Africa.

## **J. 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-eight 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 [Convention on Combating Bribery of Foreign Public Officials in International Business Transactions](#), 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 2021, 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 affecting trade, including the impacts of the COVID-19 pandemic. The Trade Committee met in April and October 2021, and its

Working Party met in March, June, October, and December 2021. The Trade Committee and its subsidiary groups paid special 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 [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), a quantitative assessment of policy-based restrictions on services trade, based on OECD Member and [Key Partner](#) data on 22 services sectors across 48 countries and the update of the Digital STRI that catalogs barriers affecting trade in digitally enabled services across 74 countries and economies. Among other activities in 2021, the Committee finalized new research on measuring distortions in international markets caused by government support provided in the form of financing offered to companies on below-market terms. In addition, the Committee continued to assess the impact of COVID-19 on global trade and published several reports on global value chains. The Trade Committee has also discussed the role trade can play in inclusive economic recovery.

In 2021, the United States hosted the OECD Ministerial Council Meeting (MCM) under the theme of “Shared Values: Building a Green and Inclusive Future.” During Part One of the MCM, Ministers met virtually in June 2021 to welcome the new Secretary General to the organization, reflect on lessons learned from the COVID-19 pandemic, and share Members’ priorities for the near-term recovery. During Part Two of the MCM, Ministers met in person in October 2021 to honor the Organization’s 60th anniversary with a focus on addressing Members’ medium- and long-term challenges. U.S. Trade Representative Tai chaired the Trade Session of the MCM on Making Trade Work for All. Trade Ministers shared their best practices and countries’ experiences with linking trade and labor commitments in trade agreements and discussed the need to promote internationally recognized labor rights and inclusive growth. In addition, Trade Ministers shared their experience with leveraging trade and investment policies to incentivize Responsible Business Conduct and address labor risks in global supply chains. Trade Ministers also discussed challenges posed to the international trading system by non-market practices.

## 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 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 2021. The Committee continued its supportive efforts with Group of 20 (G20) countries as well as major economies in Southeast Asia. Contributing to trade-related discussions at the G20 and other relevant international fora (*e.g.*, Group of Seven (G7), Asia-Pacific Economic Cooperation (APEC), Association of Southeast Asian Nations (ASEAN)), through the timely use of the Committee’s evidence-based analysis and policy insights, remained a priority.

In 2021, Costa Rica became the 38th Member of the OECD. Costa Rica is the fourth Member country from the Latin America and Caribbean region to join, following Mexico, Chile and Colombia.

The OECD 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, countering illicit trade, and financial markets. There are about 300 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 2021, 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. These groups also promote transparency in Members' trade policies and 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, other bodies, and plurilateral configurations, including:

- Committee on Agriculture;
- Committee on Anti-dumping Practices;
- Committee on Market Access;
- Committee on Application of Sanitary and Phytosanitary Measures;
- Committee on Subsidies and Countervailing Measures;
- Committee on Technical Barriers to Trade;
- Committee on Safeguards;
- Committee on Trade Facilitation;
- Working Party on State Trading Enterprises;
- 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; and
- Plurilateral work on Domestic Regulation.

In terms of WTO negotiations, Members sought to advance work in line with the results from the Eleventh Ministerial Conference of the WTO in Buenos Aires, Argentina in December 2017, with the goal of achieving substantive outcomes prior to the Twelfth Ministerial Conference that was originally planned to take place in 2019, but was rescheduled to 2020, then December 2021, then postponed indefinitely due to the COVID-19 pandemic.

Negotiations in 2021 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 also worked with like-minded WTO Members to advance plurilateral work on digital trade and on December 2, 2021, joined over 60 WTO Members, representing more than 90 percent of global services trade, in announcing the successful conclusion of negotiations of the WTO Joint Statement Initiative on Services Domestic Regulation.

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.

In 2021, the United States focused on mechanisms to improve the overall functioning of the WTO, to include implementation of existing WTO Agreements.

In advance of the Twelfth Ministerial Conference, which was eventually postponed, the United States worked through various WTO standing committees to advance reform ideas, including that Members should begin the process of identifying opportunities to achieve results, even if incremental ones, and avoid buying into the predictable, and often risky, formula of leaving everything to a package of Ministerial statements and decisions. 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 (CoA-SS) began in early 2000 under the original mandate of Article 20 of the Agreement on Agriculture. Negotiations in the Special Session of the Committee on Agriculture were conducted under the mandate agreed upon at the Doha Round, 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 Sixth Ministerial Conference in Hong Kong, China in December 2005. However, at the Tenth Ministerial Conference in Nairobi, Kenya in December 2015, Members acknowledged in the Ministerial Declaration that there was no consensus to reaffirm Doha Round 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 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.

In 2021, the United States engaged intensively with Members in preparation for the Twelfth Ministerial Conference, which was ultimately postponed due to the COVID-19 pandemic. The Chair of the CoA-SS negotiations held several meetings in various formats with increasing frequency leading up to the expected Ministerial at the end of 2021. In addition, the Chair circulated draft negotiating text, which was intended to facilitate negotiations and covered all areas of the agriculture negotiations—market access, domestic support, export competition, export restrictions, special safeguard mechanism, cotton, and public stockholding for food security purposes—as well as the cross-cutting issue of transparency. The United

States sought to focus agriculture discussions on efforts to improve transparency and emphasized the need for Members to work toward realistic and doable outcomes. In July 2021, the United States, along with co-sponsors, Canada, the European Union (EU), and Japan, submitted a formal proposal on agricultural transparency intended as a deliverable for the Twelfth Ministerial Conference. Also, in July 2021, the United States and co-sponsors Canada, Chile, Colombia, Paraguay, and Uruguay, presented a technical paper on public stockholding for food security purposes.

## **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 CTS-SS held informal meetings in March and June 2021. The focus of the March meeting was on a submission by the African, Caribbean and Pacific group titled, “Vulnerable ACP State Services Sectors Impacted in the Context of the COVID-19 Pandemic.” The June meeting focused on a submission by a group of Members proposing discussions on market access for environmental services. Starting in June 2021 and continuing through the Fall, Members discussed how to reflect CTS-SS work in the context of Twelfth Ministerial Conference.

## **3. Negotiating Group on Rules**

In December 2017, at the Eleventh Ministerial Conference in Buenos Aires, Argentina, 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 the 2017 Ministerial Conference, the Rules Negotiating Group (RNG) has held regular meetings in various configurations to advance the fisheries subsidies negotiations. However, the Twelfth Ministerial Conference, originally planned for 2019, was rescheduled for 2020, then December 2021, and then postponed indefinitely due to the COVID-19 pandemic. Nonetheless, over the course of 2021, negotiations proceeded on the basis of a rigorous schedule in multiple configurations and technological formats. Additionally, a virtual Ministerial-level meeting was held in July 2021 to advance the negotiations.

In 2021, the United States continued to play a leadership role in seeking a meaningful outcome by continuing to advocate for strong fisheries subsidies disciplines, including prohibitions on subsidies to vessels determined to be engaged in IUU-fishing, subsidies for fishing of overfished stocks, subsidies contingent on fishing beyond 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, and top subsidizers argued that their own fisheries subsidies are beneficial and should be excluded from any disciplines.

On May 26, 2021, the United States put forward a proposal to ensure an outcome in the negotiations can contribute to Members’ efforts to highlight and address the use of forced labor on fishing vessels. The proposal calls for: (1) the inclusion of effective disciplines on harmful subsidies to fishing activities that may be associated with the use of forced labor; (2) the explicit recognition of this problem and the need to

eliminate it; and, (3) transparency with respect to vessels or operators engaged in the use of forced labor. The United States will continue to constructively engage to conclude the negotiations with a meaningful outcome that protects our oceans and supports U.S. fishers and workers.

#### **4. Dispute Settlement Body, Special Session**

Following the Fourth Ministerial Conference in Doha, Qatar in November 2001, the Trade Negotiations Committee (TNC), a subsidiary body to the General Council, 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.” Due to the complex nature of the negotiations, deadlines were not met. However, the General Council decided that Members should continue work toward clarification and improvement of the Dispute Settlement Understanding (DSU), without establishing a deadline, and these negotiations have continued since.

Over the course of the DSB-SS, the United States advanced proposals to improve the transparency and effectiveness of WTO dispute settlement. One U.S. proposal related to 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 called on WTO Members to consider rules for *amicus curiae* submissions, *i.e.*, submissions by nonparties to a dispute.

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.

Throughout the previous phases of the review of the DSU, Members engaged in a general discussion of the issues and tabled proposals to clarify or improve the DSU. Members reviewed each proposal submitted and requested explanations and posed questions to the Member(s) making the proposal. Members also had an opportunity to discuss each issue raised by the various proposals. The Chair of the review issued a Chair’s text “to take stock of” the work as of 2008 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 included the Chair’s summary of the discussions of the issues by Members. The DSB-SS did not meet in 2020 or 2021.

#### **5. Council for Trade-Related Aspects of Intellectual Property Rights, Special Session**

In 2021, the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council) Special Session did not meet 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 2021.

In 2021, the United States and a group of other Members (the Joint Proposal group<sup>29</sup>) continued to maintain their position that the establishment of a multilateral system for notification and registration of GIs 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 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 2022, 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.

## **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-Most Favored Nation (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 Fifth Ministerial Conference in Cancun, Mexico, in September 2003, 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 Sixth Ministerial Conference in Hong Kong, China in December 2005, Members reached agreement on the following five ASPs: (1) access to WTO waivers; (2) coherence; (3) duty-free and quota-free treatment for least-developed countries (LDCs); (4) Trade-Related Investment Measures; and, (5) 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. Negotiations continued periodically on the Cancun 28 until the proponents dropped them from consideration for the Ninth Ministerial Conference in Bali, Indonesia, in December 2013.

In the run-up to the Tenth Ministerial Conference in Nairobi, Kenya, in December 2015, the Group of 90 (G90) (the African, Caribbean and Pacific Group, the African Group, and LDC Group) proposed 25 ASPs; but none achieved consensus at the Ministerial Conference. Prior to the Eleventh Ministerial Conference in Buenos Aires, Argentina in December 2017, the G90 resubmitted 10 of the 25 ASPs with minor revisions, but no change in overall approach. As was the case in 2015, none achieved consensus. The G90

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<sup>29</sup> 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, Republic of Korea, Mexico, New Zealand, Nicaragua, Paraguay, South Africa, and the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu.

resubmitted the 10 ASPs in 2019, with minor revisions, and again in early 2020. Since 2017, including during informal consultations by the CTD-SS chair in 2021, the United States and several other WTO Members have consistently maintained that the 10 ASPs are not a basis for work, and no outcome is possible on them.

These 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 the need for greater differentiation among self-declared 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 Eighth Ministerial Conference in Geneva, Switzerland in December 2011, and there were no meetings of the Negotiating Group on Non-Agricultural Market Access in 2021.

## **C. Work Programs Established in the Doha Development Agenda**

### **1. Working Group on Trade, Debt, and Finance**

Ministers at the Fourth Ministerial Conference of the WTO in Doha, Qatar in 2001 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.

The WGTDF met three times in 2021, in May, July, and November. The discussion at these meetings focused primarily on a proposal for a work program on trade finance, aimed at facilitating the availability of trade finance for small and medium-sized enterprises in developing countries. A second proposal added debt servicing issues to the discussion.

For more information on the Working Group on Trade, Debt, and Finance, see the [2021 Report of the Working Group on Trade, Debt, and Finance to the General Council](#).

### **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 Trade Negotiations Committee 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.

The WGTTT met twice in 2021. WTO Members continued their consideration of the relationship between trade and transfer of technology and of any possible recommendations. However, the WGTTT did not reach any conclusions on these issues.

For more information on the Working Group on Trade and Transfer of Technology, see the Working Group's [2021 Annual Report](#).

### **3. Work Program on Electronic Commerce**

In December 2019, Members agreed to extend the longstanding WTO moratorium on customs duties on electronic transmissions until the Twelfth Ministerial Conference. In 2021, Members engaged in dedicated discussions on electronic commerce issues, both in the context of the Work Program on Electronic Commerce and informal sessions involving outside experts.

*For further information on this initiative, see Chapter III.D Digital Trade.*

## **D. General Council Activities**

The WTO General Council is the highest level decision-making body in the WTO that meets on a regular basis each 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 2021, the Chairperson 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. These consultations were convened with a view to resolving outstanding issues on the General Council's agenda. The Office of the U.S. Trade Representative participated in all General Council meetings and consultations in order to advance U.S. interests at the WTO.

For more information on the WTO General Council, see the Council's [2021 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. It is 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 2021, the CTG held three formal meetings, in March, July, and November. The CTG also met informally four times, in February, March, and twice in July.

For more information on the Council for Trade in Goods, see the Council's [2021 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 2021, the CoA held three meetings in March, June, and September during which Members reviewed progress on the implementation of commitments negotiated in the Uruguay Round. In addition, as was agreed at the special meeting of the Committee in June 2020, "COVID-19 and Agriculture" remained a standing item on the agenda of all committee meetings in 2021. These discussions were organized based on Members' *ad hoc* reports on their measures taken in the agricultural sector in response to the COVID-19 pandemic as well as contributions by observer international organizations.

The United States participated actively in the review process and raised issues concerning the operation of Members' agricultural policies through submitting 128 questions (or sets of questions) to other Members in 2021. The United States also participated in several informal meetings to review the implementation of the decision at the Tenth Ministerial Conference in Nairobi, Kenya, in 2015 to eliminate export subsidies for agricultural products, and to review the decision at the Ninth Ministerial Conference in Bali, Indonesia in 2013 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 Committee's [2021 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 2021, the MA Committee held two formal meetings in which the United States raised specific market access concerns with Angola, the members of the Gulf Cooperation Council, India, Indonesia, Mexico, and the Russian Federation. The United States also used the formal meetings to promote transparency by

stressing the importance of timely and complete notifications of Members' quantitative restrictions. The MA Committee also reviewed various trade measures taken by WTO Members in 2021 to combat the COVID-19 pandemic.

The MA Committee also held several informal meetings 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 Committee's [2021 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 operation 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 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. Representatives from a number of international organizations attend SPS 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 2021, the SPS Committee held meetings in March, July, and November. The United States raised concerns in the SPS Committee regarding the adverse impact on U.S. food and agricultural exports resulting from SPS measures of other WTO Members. The United States continues to join a broad coalition of countries raising concerns with the EU's hazard-based pesticide policies, including the withdrawal of several pesticide maximum residue levels (MRLs) critical to international agricultural trade. The United States also raised concerns about several of China's actions in response to the COVID-19 pandemic that affect trade.

The proposal for an SPS Declaration to be adopted at the Twelfth Ministerial Conference gained significant momentum in 2021. Originally proposed by Brazil, Canada, and the United States, the proposal now has 79 cosponsors from diverse economic and geographic perspectives.

For more information on the Committee on the Application of Sanitary and Phytosanitary Measures, see the Committee's [2021 Annual Report](#).

### **4. Committee on Trade-Related Investment Measures**

The Agreement on Trade-Related Investment Measures (TRIMS) prohibits investment measures that are inconsistent with national treatment obligations under Article III:4 of the General Agreement on Tariffs and Trade (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 TRIMS 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 2021 the TRIMS Committee held two formal meetings, in March and October, 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, and measures by the Russian Federation relating to state-owned enterprise (SOE) purchases.

For more information on the Committee on Trade-Related Investment Measures, see the Committee's [2021 Annual Report](#).

## **5. Committee on Subsidies and Countervailing Measures**

The Agreement on Subsidies and Countervailing Measures 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 held two special and two regular meetings in April and October of 2021. Particularly noteworthy was an agenda item sponsored by the United States, the European Union, Japan, Canada, 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. At the two meetings in 2021 under this agenda item, Members discussed: a report by the Organization for Economic Cooperation and Development on below-market financing; the negative effects that massive subsidization in one country can have on innovation in other countries; the harmful impact that subsidization and overcapacity has had on the environment; and, the issue of subsidies and overcapacity in the steel, semiconductors, and aluminum sectors. The United States also continued to advocate for several initiatives that would enhance the transparency of Members' subsidy regimes.

For more information on the Committee on Subsidies and Countervailing Measures, see the Committee's [2021 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 2021, the Committee on Customs Valuation (CCV) held a formal meeting in May and in October. 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. The CCV also conducted the Fifth Review of the Agreement on Preshipment Inspection (PSI) this year. The United States raised awareness about the growing use of preshipment inspection procedures for conformity assessment purposes and suggested monitoring this development further through a focus on notification. The Fifth PSI Review was concluded at the October 2021 meeting.

As of December 31, 2021, 111 Members have notified their national legislation on customs valuation (an increase of 7 since 2020) and 76 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 Committee’s [2021 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 2021. The ROO 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 May 2021, the ROO Committee discussed the utilization of trade preferences by least-developed countries. This discussion continued at the October 2021 meeting. The ROO Committee also discussed the draft decision to enhance transparency with respect to non-preferential rules of origin.

For more information on the Committee on Rules of Origin, see the Committee’s [2021 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 standards, technical regulations, and conformity assessment procedures for all products. One of the main objectives of the TBT Agreement is to prevent the use of standards, technical regulations, and conformity assessment procedures as unnecessary barriers to trade while ensuring that Members retain the right to regulate for legitimate purposes, including 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 Member forum for consultation on issues associated with implementation and administration of the TBT Agreement. The TBT Committee provides an opportunity for Members to discuss specific trade concerns regarding measures 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 updates from observing international organizations.

In 2021, the TBT Committee held three formal and three informal meetings. The formal meetings were held in February, June, and November and focused on raising specific trade concerns and agreeing to the TBT Committee's new work plan agreed to in the Ninth Triennial Review of the TBT Agreement. Due to the COVID-19 pandemic, the meetings were held in person and via a virtual platform. In total, the United States formally raised 51 specific trade concerns; some of the same concerns were raised in more than one meeting. Informally and on a bilateral basis, the United States raised another 50 concerns. The TBT Committee's informal thematic discussion in February 2021 was on transparency.

For more information on the Committee on Technical Barriers to Trade, see the Committee's [2021 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 2021, the Antidumping Committee held two formal meetings, in April and October.

For more information regarding the Committee on Antidumping Practices, see the Committee's [2021 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 2021, the Import Licensing Committee held two formal committee meetings, in April and in October. In April, the United States raised specific concerns with licensing in Argentina, the Dominican Republic, China, Egypt, India, Indonesia, and the Philippines. In October, the United States raised specific concerns with licensing in Tanzania and continued to raise concerns with China, India, and the Philippines. Further, the United States continued to stress the importance of timely and complete notifications and Member transparency within the Committee. Additionally, the Import Licensing Committee held an informal meeting in September 2021 to discuss updates to the WTO import licensing [website](#), possibility to introduce online notifications and streamlining of Member's import licensing work.

For more information on the Committee on Import Licensing, see the Committee's [2021 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 the 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. That agreement 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 2021, the Safeguards Committee held two formal meetings in April and October, and two informal meetings in March and October.

For more information regarding the Committee on Safeguards, see the Committee's [2021 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 31, 2021, 154 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 it 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 2021, the Committee on Trade Facilitation (TFC) held six formal and eight informal meetings that focused on four main areas: (1) matters relating to the implementation and administration of the TFA; (2) experience sharing/thematic discussions; (3) updates on Members' responses to the COVID-19 pandemic (including the compendium of the measures reported under document G/TFA/W/40/Rev.1); and, (4) the first four-year review under article 23.1.6 of the Trade Facilitation Agreement. The United States submitted to the TFC an updated Article 22 notification, an experience sharing paper on Article 5, Test Procedures, and a draft Ministerial Declaration and Decision on Supporting the Timely and Efficient Release of Global Goods through Robust Implementation of the WTO Trade Facilitation Agreement.

For more information on the Committee on Trade Facilitation, see the Committee's [2021 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 defines an STE for the purposes of providing a notification. Members are required to submit new and full notifications to the Working Party on State Trading Enterprises (WP-STE) for review every two years.

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

In 2021, the WP-STE held two meetings in May and October.

For more information regarding the Working Party on State Trading Enterprises, see the Working Party's [2021 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 cases of willful trademark counterfeiting and copyright piracy on a commercial scale, criminal actions.

In 2021, the TRIPS Council held three formal meetings to consider its regular agenda, in March, June, and October. The TRIPS Council held additional meetings to consider a proposal for a waiver of certain provisions of the TRIPS Agreement in relation to prevention, containment, or treatment of COVID-19; the extension of a moratorium on the initiation of non-violation and situation complaints under the TRIPS Agreement; and, the extension of the transition period under Article 66.1 for least developed country Members to implement the TRIPS Agreement.

For more information on the Council for Trade-Related Aspects of Intellectual Property Rights, see the [Council's 2021 Annual Report](#).

### **G. Council for Trade in Services**

The Council for Trade in Services (the Council or 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: (1) the Committee on Specific Commitments; (2) the Committee on Trade in Financial Services; (3) the Working Party on Domestic Regulation; and, (4) the Working Party on GATS Rules.

In 2021, the CTS held three formal meetings, in March, June, and October.

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 briefed the Council and shared their experiences on policy developments in this area. As in past years, 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. In addition, the United States continued to raise concerns related to certain measures adopted by the Russian Federation related to software pre-installation mandates, and certain tax preferences offered to Russian software and information technology companies.

For more information on the Council for Trade in Services, see the Council's [2021 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 issues, including implementation of existing trade commitments. In 2021, the CTFS held no formal meetings. For more information on the Committee on Trade in Financial Services, see the Committee's [2021 Annual Report](#).

## **2. Working Party on Domestic Regulation and Joint Initiative on Services 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 did not meet in 2021. For more information on the Working Party on Domestic Regulation, see the Working Party's [2021 Annual Report](#).

In addition to the work within the WPDR, a group of Members met throughout 2021 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 initiative is based upon the [Joint Ministerial Statement on Services Domestic Regulations \(WT/MIN\(17\)/61\)](#) as complemented during 2019 by a second [Ministerial Statement \(WT/L/1059\)](#). In July 2021, the United States formally declared its participation in the negotiations. These negotiations successfully concluded in December 2021, with Members issuing a Declaration on the Conclusion of Negotiations on Services Domestic Regulation, resulting in the first services trade agreement in the WTO in more than 20 years.

## **3. Working Party on General Agreement on Trade in Services 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 2021 and has not met since 2016. For more information on the Working Party on GATS Rules, see the Working Party's [2021 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 2021, the CSC held three formal meetings, in March, June, and October. Based on a proposal from the United States for the WTO Secretariat to compile a list of WTO Members' GATS Schedules of Commitments that contain conditional language, the CSC reviewed the list with the aim of receiving updates from Members who conditioned their commitments on policy reviews or pending legislation at the time of entry into force of their schedules. That review resulted in one Member submitting a new, updated schedule for certification in 2021. The United States is currently reviewing that schedule to ensure compliance with that Member's commitment to improve its schedule based on its updated telecommunications law.

For more information on the Committee on Specific Commitments, see the Committee's [2021 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 reports, oversee the implementation of panel recommendations adopted by the DSB, and authorize countermeasures. The DSB makes all of its decisions by consensus unless the DSU provides otherwise.

### Major Issues in 2021

The DSB met 12 times in 2021 to oversee disputes, including the establishment of new panels and the surveillance of implementation and recommendations adopted by the DSB, 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 2021, 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).

*For further information, see Annex III: Background Information on the WTO.*

#### *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 2021.

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*

Prior to 2021, the United States made a series of statements at DSB meetings explaining that, for more than 17 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.<sup>30</sup> 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

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<sup>30</sup> See, *e.g.*, [Minutes of the DSB meeting held on Oct. 26, 2020 \(WT/DSB/M/446\)](#).

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, thereby allowing the Appellate Body to continue to hear appeals, without WTO Members engaging with and addressing these critical issues.

### *Dispute Settlement Activity in 2021*

During the DSB's first 26 years in operation, WTO Members filed 607 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, 19 in 2019, 5 in 2020, and 9 in 2021). During that period, the United States filed 121 complaints against other Members' measures and received 152 complaints on U.S. measures. The number of complaints includes instances where complaints were filed with respect to the same issues. A number of disputes commenced in earlier years remained active in 2021.

*For a discussion on those disputes in which the United States was a complainant or defendant during 2021, see Chapter II.D WTO and FTA Dispute Settlement.*

## **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 Trade Facilitation Agreement);
- 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 2021 review cycle, the TPRB conducted 18 reviews: Argentina; Bahrain, Kingdom of; China; India; Korea, Republic of; Kyrgyz Republic; Mauritius; Mongolia; Myanmar; Nicaragua; Oman; Qatar; Russian Federation; Saudi Arabia, Kingdom of; Singapore; Tajikistan; Tonga; and Viet Nam. By the end of the 2021 cycle, the TPRB had conducted 527 reviews since its inception in 1989, taking place over the course of 414 review meetings and covering 158 out of 164 WTO Members.

For more information on the 2021 Trade Policy Review cycle, see the Review Body's [2021 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 Trade-Related Aspects of Intellectual Property Rights

(TRIPS) Agreement and the environment; labeling for environmental purposes; and, capacity-building and environmental reviews.

In 2021, the Committee met three times. The United States worked to advance priorities related to trade in recyclable and recoverable materials, and to focus Members' attention on post-consumer "reverse supply chains" to lower barriers to trade and support resource efficiency in production models.

Two informal dialogues were launched by WTO Members on the margins of the CTE in November 2020 and met several times in 2021, to advance understanding among WTO Members on a range of trade and environment issues. The first informal dialogue, the Trade and Environmental Sustainability Structured Discussions (TESSD), met five times. Over the course of 2021, the United States indicated support for the TESSD to take up trade-related issues intended to tackle the global climate change crisis, as well as to consider opportunities to enhance Members' uptake of circular economy approaches. The United States formally joined the TESSD in November 2021, including by co-sponsoring a Ministerial Statement that outlined priorities for the TESSD for 2022. The second informal dialogue, known as the Informal Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade (IDP), met three times in 2021. The United States encouraged the IDP to focus its work on trade competencies, for example, how trade facilitation can lead to more efficient reuse and recycling of recoverable scrap materials.

For more information on the Committee on Trade and Environment, see the Committee's [2021 Annual Report](#).

## **2. Committee on Trade and Development**

The Committee on Trade and Development – Regular Session (CTD-RS) 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-RS focuses on the Generalized System of Preferences (GSP) programs, the Global System of Trade Preferences among developing country Members, and regional integration efforts among developing country Members. In addition, the CTD-RS 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-RS has been the primary forum for discussion of broad issues related to the nexus between trade and development. The CTD-RS 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.

In 2021, the CTD-RS held three formal meetings, in March, June, and November. The United States encouraged necessary but difficult conversations among Members on issues pertaining to trade and development at these meetings.

For more information on the Committee on Trade and Development – Regular Session and its subsidiary bodies, see the Committee's [2021 Annual Report](#).

## **3. Committee on Balance-of-Payments Restrictions**

The Uruguay Round Understanding on Balance-of-Payments (BOP) clarified General Agreement on Tariffs and Trade (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 2021. As a result, the Committee did not meet. It approved a chair and adopted its annual report by written procedure.

For more information on the Committee on Balance-of-Payments, see the Committee's [2021 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. In November 2021, the Budget Committee completed its review of the Director-General's budget proposal for 2022-2023 with a recommendation for approval to the General Council. The General Council subsequently approved the budget proposal together with the assessed contributions of each WTO Member at its November 2021 meeting. The WTO is currently in the eleventh 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 2021 budget, the U.S. assessed contribution was 11.74 percent of the total budget assessment, or CHF 22,949,745 (approximately \$26 million).

*For further discussion on details required by Section 124 of the Uruguay Round Agreements Act on the WTO's consolidated budget, see Annex III: Background 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 Most-Favored-Nation (MFN) treatment, if relevant requirements are met.

In 2021, the CRTA met three times, in March, June and November. The United States pushed for transparency from Members on their regional and bilateral trade agreements at these meetings. In November 2021, the regional agreement among the United States, Mexico, and Canada (commonly known as USMCA in the United States, T-MEC in Mexico, and CUSMA in Canada), which entered into force on July 1, 2020, was reviewed following notification to the WTO on 16 September, 2020. The USMCA falls within the meaning of Article XXIV of GATT 1994. It also provides for the liberalization of trade in services among the parties within the meaning of Article V of the GATS.

For more information on the Committee on Regional Trade Agreements, see the Committee's [2021 Annual Report](#).

## 6. Accessions to the World Trade Organization

There were 23 applicants for WTO Membership, as of December 31, 2021. Of these 23 applicants,<sup>31</sup> seven were engaged in the WTO accession process at some point during 2021. Notably, the Working Parties for the accessions of Sudan, Timor-Leste, and Union of the Comoros—all LDCs—met during the year. In addition, Curaçao submitted its Memorandum of Foreign Trade Regime (MFTR), and a meeting of the Working Party is possible in the first half of 2022. Azerbaijan and Uzbekistan submitted multilateral inputs needed for the next meetings of their respective Working Parties. Bosnia and Herzegovina's accession process is advanced and could finish relatively quickly once its outstanding market access negotiation is concluded and it addresses a few substantive issues in the multilateral rules track of the accession process.

Of the remaining 16 WTO accession applicants, four (Equatorial Guinea, Libya, Sao Tome and Principe, and Syria) had not submitted the initial documents describing their respective foreign trade regimes as of December 31, 2021. As a result, negotiations on their accessions had not commenced. Accession negotiations with the other 12 applicants (Algeria, Andorra, the Bahamas, Belarus, Bhutan, Ethiopia, Iran, Iraq, Lebanese Republic, Serbia, Somalia, and South Sudan) remained dormant in 2021.

In November 2021, Turkmenistan submitted its application for accession pursuant to Article XII of the WTO Agreement. The General Council will consider the application in 2022, and could decide by consensus to establish a Working Party to negotiate the terms of Turkmenistan's accession.

### *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, the U.S. Department of

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<sup>31</sup> Accession Working Parties have been established for Algeria, Andorra, Azerbaijan, the Bahamas, Belarus, Bhutan\*, Bosnia and Herzegovina, Comoros\*, Curaçao, 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.)

Agriculture, the Commercial Law Development Program 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, Cabo Verde, Croatia, Estonia, Georgia, Jordan, Kazakhstan, Kyrgyz Republic, Latvia, Lao PDR, Liberia, Lithuania, Macedonia, Republic of Moldova, Montenegro, Nepal, Russian Federation, Tajikistan, Ukraine, Viet Nam, and Yemen. The United States provided resident advisors for most of these countries for some portion of the accession process.

Among current accession applicants, Algeria, Azerbaijan, Belarus, Bosnia and Herzegovina, Ethiopia, Iraq, Lebanese Republic, Serbia, Timor-Leste, and Uzbekistan have received U.S. technical assistance in their accession processes. In addition, in 2020 to 2021, Afghanistan, Georgia, Jordan, Kazakhstan, Lao PDR, Republic of Moldova, Ukraine, and Viet Nam continued to receive assistance that supports their implementation of 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.<sup>32</sup>

The Aircraft Agreement requires Signatories to eliminate tariffs on civil aircraft, engines, flight simulators, and related parts and components. It also establishes various obligations aimed at fostering free-market forces. For example, signatory governments pledge that they will base their purchasing decisions strictly on technical and commercial factors.

There are currently 33 Signatories to the Aircraft Agreement: Albania; Canada; Egypt; the European Union (the following 19 EU Member States are also signatories in their own right: Austria; Belgium; Bulgaria; Denmark; Estonia; France; Germany; Greece; Ireland; Italy; Latvia; Lithuania; Luxembourg; Malta; the Netherlands; Portugal; Romania; Spain; and, Sweden), Georgia; Japan; Macau, China; Montenegro; North Macedonia; Norway; Switzerland; Chinese Taipei; the United Kingdom; and, the United States. WTO Members with observer status in the Committee on Trade in Civil Aircraft are: Argentina; Australia; Bangladesh; Brazil; Cameroon; China; Colombia; Gabon; Ghana; India; Indonesia; Korea, Republic of; Israel; Mauritius; Nigeria; Oman; the Russian Federation; Saudi Arabia, Kingdom of; Singapore; Sri Lanka; 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 2021, the Committee held one formal meeting during which Signatories decided to initiate an exercise to update the Aircraft Agreement's product coverage to reflect the most recent version of the Harmonized System; and discussed issues related to strengthening transparency. Additionally, the United States participated in informal consultations and Committee meetings held by the Chair on transposing the product coverage annex and other matters related to the Aircraft Agreement.

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<sup>32</sup> Additional information on this agreement can be found on the [WTO's website](#).

For more information on the Committee on Trade in Civil Aircraft, see the Committee’s [2021 Annual Report](#).

## **2. Committee on Government Procurement**

The WTO Agreement on Government Procurement (GPA) is a plurilateral agreement included in Annex IV of 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 European Union and its 27 Member States; Hong Kong, China; Iceland; Israel; Japan; Korea, Republic of; Liechtenstein; Moldova, Republic of; Montenegro; the Netherlands with respect to Aruba; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei; Ukraine; the United Kingdom; and, the United States (collectively the GPA Parties).

In 2021, the Committee held three formal and informal GPA meetings (in March, June, and July) focusing on accessions and Work Programs. The GPA Committee held further discussions at the informal meetings on the accessions to the GPA of China, Brazil, the Kyrgyz Republic, North Macedonia, the Russian Federation, and Tajikistan.

For more information on the Committee on Government Procurement, see the Committee’s [2021 Annual Report](#).

## **3. The Information Technology Agreement and the Expansion of Trade in Information Technology Products**

The Information Technology Agreement (ITA)<sup>33</sup> 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. As of December 2021, 82 WTO Members are ITA participants. Among these 82 ITA participants, however, Morocco has yet to submit the formal documentation to implement its ITA commitments, and El Salvador has indicated that implementation would begin after the completion of domestic legal procedural requirements. Regarding new participants, Lao People’s Democratic Republic (Lao PDR) transmitted a note verbal to the WTO in June 2021, expressing its intention to join the ITA and the ITA Expansion Agreements. Per ITA Committee procedures, Lao PDR circulated its draft ITA tariff schedules to the Committee for review and approval. The next procedural step is for Lao PDR to submit modifications to its WTO tariff schedule of concessions, in accordance with the relevant WTO procedures,<sup>34</sup> to record these duty-free tariff commitments.

In 2021, the Committee of the Participants on the Expansion of the Trade in Information Technology Products (better known as the ITA Committee) held two formal meetings in April and September, as well as one informal meeting in July. The meetings focused on the status of and concerns with implementation,

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<sup>33</sup> More formally known as the “[WTO Ministerial Declaration on Trade in Information Technology Products](#)” (WT/MIN(96)/16).

<sup>34</sup> The relevant procedures are detailed in the “[Decision on 26 March 1980 on Procedures for Modification and Rectification of Schedules of Tariff Concessions](#)” (BISD 27S/25).

as well as reducing divergences of certain product classifications. The Committee also held a symposium to mark the 25th Anniversary of the ITA with participation from U.S. and other global stakeholders.

For more information on the ITA Committee, see the Committee's [2021 Annual Report](#).

A subset of ITA participants concluded negotiations to expand significantly the product coverage of the ITA in 2015. Under the Declaration on the Expansion of Trade in Information Technology Products (ITA Expansion),<sup>35</sup> 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 2021, the Parties continued to implement the ITA Expansion. For a very limited number of sensitive products, tariffs will continue to be phased out and will be eliminated in 2023. In addition, the majority of Parties have submitted, in accordance with the relevant WTO procedures,<sup>36</sup> 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 2021 and provided regular updates to the ITA Committee on the status of implementation.

## **L. Informal Working Group on Trade and Gender**

The Informal Working Group on Trade and Gender (IWGTG) was established in September 2020 to advance efforts to increase women's participation in global trade. The IWGTG is chaired by Botswana, El Salvador, and Iceland. The group is open to all WTO Members and Observers. In 2021, the Office of the U.S. Trade Representative (USTR) began to actively participate in the IWGTG. In July 2021, USTR arranged a presentation from the U.S. Department of Commerce Commercial Law Development Program on U.S. capacity building programs to promote women's economic empowerment through commercial and economic reforms. USTR actively engaged in text-based negotiations for the Joint Ministerial Declaration on the Advancement of Gender Equality and Women's Economic Empowerment within Trade. In December 2021, USTR announced its intention to join this declaration, although a date for adoption has not yet been determined following the postponement of the Twelfth WTO Ministerial Conference.

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<sup>35</sup> [“Declaration on the Expansion of Trade in Information Technology Products” \(WT/L/956\)](#).

<sup>36</sup> The relevant procedures are detailed in the [“Decision on 26 March 1980 on Procedures for Modification and Rectification of Schedules of Tariff Concessions” \(BISD 27S/25\)](#).

# 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 tiers of committees that constitute the principal mechanism for advising USTR as it develops and coordinates U.S. Government positions on international trade and trade-related investment issues.

USTR chairs and administers both the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC). The TPRG's membership is at the Deputy/Under Secretary level. The TPSC's membership is at the senior civil servant level. The 21 voting member agencies of the TPRG and TPSC are: USTR, 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.

Supporting the TPSC are over 90 subcommittees responsible for specialized issues. Through the TPSC process, USTR requests input and analysis from the subject matter experts of the appropriate TPSC subcommittee or task force. The conclusions and recommendations of the subcommittee or task force are presented to the TPSC and serve as the basis for reaching interagency consensus. In cases where the TPSC does not reach consensus on a topic, or if the issue under consideration involves particularly significant policy questions, the issue may be referred to the TPRG or to Cabinet Principals.

The TPSC regularly seeks advice from the public on policy decisions and negotiations through *Federal Register* notices and public hearings. In 2021, the TPSC requested public comments on: The WTO Dispute Settlement Proceeding Regarding United States-Origin Marking Requirement (Hong Kong, China) (March to April 2021); Certain Products Exclusions Related to COVID-19: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (August to September 2021); the National Trade Estimate Report on Foreign Trade Barriers (September to October 2021); the Extension Review of the Safeguard Action on Imports of Certain Crystalline Silicon Photovoltaic Cells (September to December 2021); and Possible Reinstatement of Certain Exclusions in the Section 301 Investigation of China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation (October to December 2021).

The TPSC held one virtual public hearing in May 2021: a three-day public hearing on Proposed Actions on Digital Services Taxes under consideration by Austria, India, Italy, Spain, Turkey, and the United Kingdom, with stakeholders afforded the opportunity to participate virtually or in written form due to the COVID-19 pandemic. The TPSC also invited written comment from the public in lieu of public hearings due to the COVID-19 pandemic on: the Special 301 Review (January to March 2021); the annual African Growth and Opportunity Act country eligibility review (May to June 2021); the USTR report to Congress

regarding the operation of the Caribbean Basin Initiative (CBI) (July to August 2021); the 2021 Review of Notorious Markets for Counterfeiting and Piracy (August to October 2021); China’s Compliance with its WTO Commitments (September to October 2021); and Russia’s Implementation of its WTO Commitments (September to October 2021). All testimony, submissions, and questions and responses (not containing Business Confidential Information) are posted on Regulations.gov to ensure transparency.

## **B. Public Input and Transparency**

Reflecting Congressional direction and to draw advice from the widest array of diverse stakeholders including business, labor, agriculture, civil society, and the general public, the Office of the United States Trade Representative (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 trade negotiations that may affect them or touch upon State and local government policies. Each of these elements is discussed 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’s work.

- *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.
- On May 7, 2021, U.S. Trade Representative Tai released a set of Transparency Principles that establish the foundation for a high transparency standard for the day-to-day operations of USTR. These Transparency Principles reflect the Administration’s commitment to comprehensive public engagement, including outreach to historically overlooked and underrepresented communities, as it develops and implements a trade policy that advances the interests of all Americans. In the Transparency Principles, USTR committed to adhere to the Guidelines for Consultation and

Engagement adopted in October 2015, among other things. At the same time, the U.S. Trade Representative named the General Counsel as the CTO in charge of leading the agency's efforts to put the Transparency Principles into action and identifying further opportunities for improving transparency in the development of U.S. trade policy.

- *Consultation with Congress:* To broaden access to negotiating texts and further encourage Congressional participation, USTR provides hard copies of classified text to the House and Senate Security offices. This includes access to U.S. text proposals and consolidated text of agreements under negotiation to all Members of Congress, professional staff with an appropriate security clearance of the Committees on Finance and Ways and Means, to professional staff with an appropriate security clearance from other Committees interested in reviewing text relevant to that Committee's jurisdiction, to personal office staffers with an appropriate security clearance of any Member of the Committees on Finance and Ways and Means, and to personal office staff with an appropriate security clearance accompanying his or her Member of Congress. Any Member of the House or Senate Advisory Group on Negotiations, or any Member designated a congressional advisor on trade policy and negotiations by the Speaker of the House or the President *pro tempore* of the Senate (in both cases after consultation with the Chairman and Ranking Member of the appropriate committees of jurisdiction), and up to three professional staff with an appropriate security clearance from each of the Committees on Finance and Ways and Means will be accredited to negotiating rounds. In response to the COVID-19 pandemic, and at the request of the Congress, USTR improved access to classified text using a secure website.
- *Public Engagement:* USTR also provides information to the public and interested stakeholders regarding trade agreement negotiations and other trade developments by releasing 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, publishing *Federal Register* notices for each agreement under consideration, and holding public hearings on negotiations and other trade priorities; holding 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 2021, USTR published approximately 65 *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 China 301 Investigation, digital services taxation, the Section 201 proceeding involving solar products, market opportunities for U.S. producers in overseas airport construction, and other topics. Public comments received in response to *Federal Register* notices are available for inspection [online](#).

USTR also held public hearings or fostered public participation by inviting written submissions and responses to questions from the Trade Policy Staff Committee (TPSC), as appropriate, regarding a variety of trade policy initiatives, including the Special 301 Review, Section 301 Investigations into Digital Services Taxes, China's Compliance with WTO Commitments, and other topics. Submissions of all parties in all hearings are posted online.

*For a discussion on TPSC public hearings and advice, see Chapter V.A Policy Coordination.*

## Open Door Policy

USTR officials, including the U.S. Trade Representative, and professional staff from regional, functional, and multilateral offices as well as the Office of Intergovernmental Affairs and Public Engagement, 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, non-governmental organizations, 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; environment, 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.

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.

For additional information on the advisory committees, see the [USTR website](#).

## **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 list of all the ACTPN members and the diverse 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 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. 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. 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.

Beginning with the October 2021 TEPAC *Federal Register* nomination notice, USTR is exploring how the re-chartering of USTR-managed advisory committees can further the objectives of Executive Order (EO) 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, and EO 14035, *Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce*. As of December 2021, no other policy advisory committees had been re-chartered.

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.

### *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.

### *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.

### *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. In October 2021, USTR established a new two-year charter term and accepted applications for new members of the TEPAC through a *Federal Register* nomination notice.

### *Trade Advisory Committee on Africa*

The 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.

## **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 the U.S. Trade Representative 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). As of December 31, 2021, 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, which may include, but are 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 ensured in terms of points of view, demographics, geography, and entity or organization size.

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 that 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. 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.

### **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.

## **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 13 requests pending at the start of fiscal year 2021, and over the course of the fiscal year received 93 new FOIA requests and processed 97 FOIA requests. The USTR FOIA Office demonstrated its ongoing commitment to transparency by, among other things, closing its 13 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, such as the calendars for the U.S. Trade Representative and Chief of Staff. The USTR FOIA Office also updated frequently requested records including USTR's FOIA logs on a quarterly 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, the Office of the U.S. Trade Representative (USTR) provides hard copies of classified text to the House and Senate security offices. This includes access to U.S. text proposals and consolidated text of agreements under negotiation to all Members of Congress, professional staff with an appropriate security clearance of the Committees on Finance and Ways and Means, to professional staff with an appropriate security clearance from other Committees interested in reviewing text relevant to that Committee's jurisdiction, to personal office staffers with an appropriate security clearance of a Member of the Committees on Finance and Ways and Means, and to personal office staff with an appropriate security 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 with an appropriate security clearance from each of the Committees on Finance and Ways and Means will be accredited to negotiating rounds. In response to the COVID-19 pandemic and at the request of the Congress, USTR improved access to classified text using a secure website.

Despite the many challenges presented by the COVID-19 pandemic in 2021, USTR continued robust consultations with the U.S. Congress. In person meetings were altered to comply with social distancing

guidance, and many meetings were shifted to calls. USTR consulted with Congressional committees and the leadership of both parties in the U.S. Senate and U.S. House of Representatives, held numerous meetings and calls with Members and their staff, and held three formal Congressional hearings. These meetings covered issues ranging from the United States–United Kingdom Cooperative Framework for Large Civil Aircraft, European Union steel and aluminum tariffs, agricultural trade, China Economic and Trade Agreement commitments, the India Trade Policy Forum, enforcement activities, the Indo-Pacific Economic Framework, and other initiatives. USTR also engaged Members of Congress in their districts, travelling to Massachusetts, North Carolina, South Carolina, Michigan, Wisconsin, Illinois, and Washington state, meeting with constituents, stakeholders, farmers, and workers. These engagements, which amounted to over one thousand hours, kept the Congress constantly abreast of USTR activities and ensured the Congress had continuous opportunities to shape U.S. trade policy.

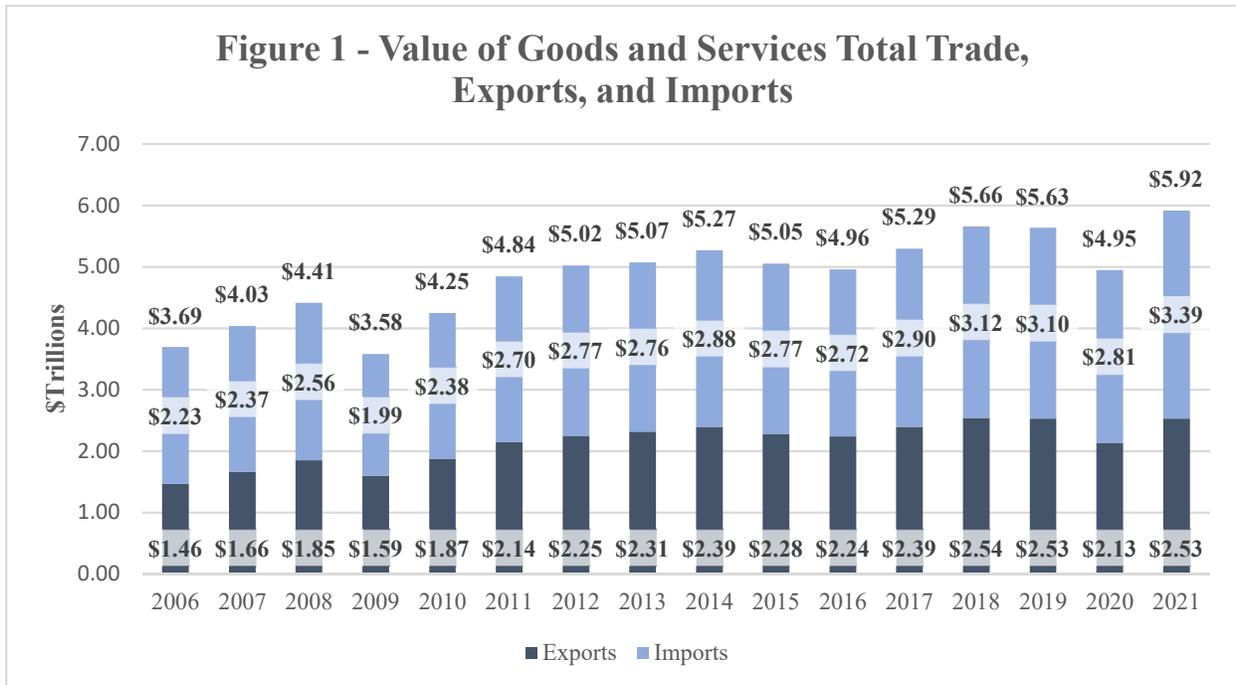
# ANNEX I

# U.S. TRADE IN 2021

## I. 2021 Overview

The global economy and world trade started recovering in 2021 from the impact of the COVID-19 pandemic and the resulting shutdowns within countries and at the borders that occurred in 2020. The global economy grew an estimated 5.9 percent, after contracting 3.1 percent in real terms in 2020. Similarly, world trade of goods and services in 2021 increased an estimated 11.0 percent, after declining nearly 10 percent in 2020.

Like the global economy, U.S. trade in 2021 marked a strong recovery from the COVID-19 pandemic-induced decline in 2020. U.S. trade (exports and imports of goods and services) increased 19.6 percent (\$971 billion) to a record \$5.9 trillion in 2021,<sup>37</sup> following the decline of 12.2 percent (\$688 billion) in 2020 (*Figure 1*). U.S. exports of goods and services increased 18.5 percent (\$394 billion) in 2021, following a decline of 15.6 percent (\$394 billion) in 2020, while U.S. imports of goods and services increased 20.5 percent (\$577 billion) in 2021, following a 9.5 percent (\$294 billion) decline in 2020. As a share of U.S. GDP, total U.S. trade increased as well, representing 25.7 percent of GDP in 2021, up from 23.7 percent in 2020, but still below the 26.4 percent in 2019 (*Figure 2*). U.S. exports represented 11.0 percent of U.S. GDP in 2021, up from 10.2 percent in 2020. U.S. Imports represented 14.7 percent of U.S. GDP in 2021, up from 13.5 percent in 2020. <sup>38</sup>

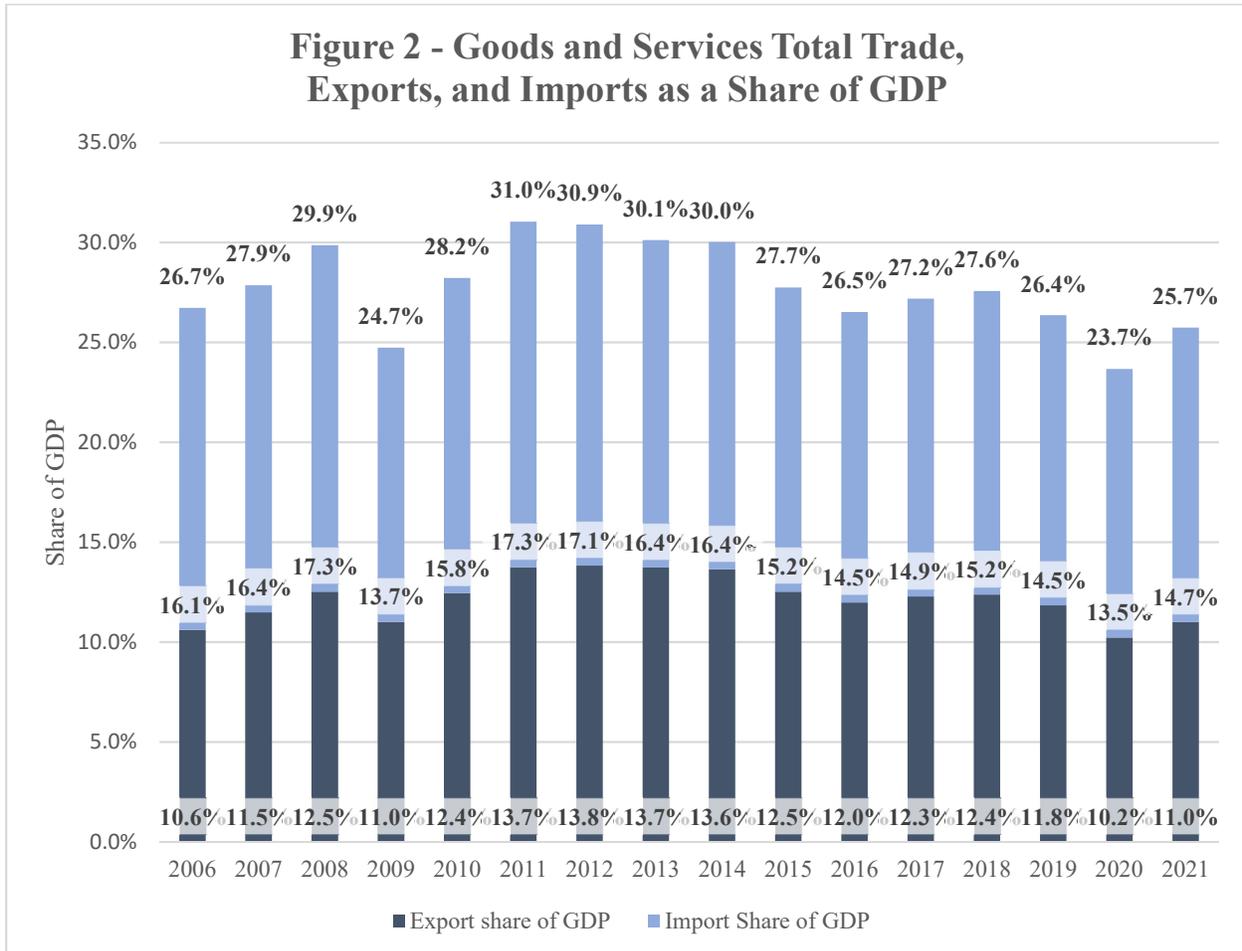


Source: U.S. Department of Commerce

<sup>37</sup> On a balance of payments (BOP) basis.

<sup>38</sup> The broadest measure of commercial trade is from the Current Account and includes goods and services as well as earnings/payments on foreign investment and current transfers. 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 17.4 percent in the first three quarters of 2021 (latest data available) and represented an annualized estimate of 36.4 percent of GDP (based on the first 3 quarters of 2021), up from 34.1 percent in full year 2020.

In real terms, U.S. trade was up 10.1 percent in 2021, compared to the 10.9 percent decline in 2020.<sup>39</sup> Real U.S. exports of goods and services were up 4.6 percent in 2021, compared to the decline of 13.6 percent in 2020, while real U.S. imports of goods and services were up 14.0 percent, compared to the decline of 8.9 percent in 2020. U.S. exports of goods and services contributed 0.48 percentage points to U.S. GDP growth in 2021.



Source: U.S. Department of Commerce

The U.S. deficit in goods and services trade increased \$182.4 billion (27.0 percent) in 2021 to a record \$859.1 billion. As a share of GDP, the U.S. deficit increased from 3.2 percent in 2020 to 3.7 percent in 2021 but is down from its high of 5.5 percent in 2006.

The U.S. deficit in goods trade alone increased 18.3 percent (\$168.7 billion) to \$1.1 trillion in 2021. The U.S. services trade surplus decreased 5.6 percent (\$13.8 billion) to \$231.5 billion in 2021. As a share of GDP, the U.S. goods deficit increased from 4.4 percent in 2020 to 4.7 percent in 2021, and the U.S. services surplus decreased from 1.2 percent in 2020 to 1.0 percent in 2021.

<sup>39</sup> On a National Income Products Account basis.

## II. Export Growth

U.S. exports of goods and services increased 18.5 percent (\$394.1 billion) in 2021 to \$2.5 trillion, and were up 13.0 percent since 2016 (*Table 1*). U.S. goods exports were up 23.3 percent (\$333.2 billion) to \$1.8 trillion, while U.S. services exports were up 8.6 percent (\$61 billion) to \$766.6 billion.

<b>Table 1 - U.S. Exports</b>					
	<b>Value (\$Billions)</b>			<b>% Change</b>	
	<b>2016</b>	<b>2020</b>	<b>2021</b>	<b>16-21</b>	<b>20-21</b>
<b>Total Goods and Services</b>	<b>2,237.9</b>	<b>2,134.4</b>	<b>2,528.5</b>	<b>13.0%</b>	<b>18.5%</b>
<b>Goods on a BOP Basis</b>	<b>1,457.4</b>	<b>1,428.8</b>	<b>1,762.0</b>	<b>20.9%</b>	<b>23.3%</b>
Foods, Feeds, Beverages	130.5	139.3	165.2	26.6%	18.6%
Industrial Supplies	397.3	465.9	635.6	60.0%	36.4%
Capital Goods	519.7	460.3	519.6	-0.03%	12.9%
Autos and Auto Parts	150.4	127.9	143.6	-4.5%	12.3%
Consumer Goods	193.7	174.8	222.1	14.7%	27.1%
Other Goods	59.9	56.7	68.5	14.4%	20.8%
Petroleum	88.8	130.7	196.1	120.7%	50.0%
Manufacturing	1,264.0	1,168.2	1,396.7	10.5%	19.6%
Agriculture	144.6	155.2	182.8	26.4%	17.8%
<b>Services</b>	<b>780.9</b>	<b>705.6</b>	<b>766.6</b>	<b>-1.8%</b>	<b>8.6%</b>
Maintenance and repair services	21.6	13.3	11.9	-44.8%	-10.2%
Transport	81.8	56.7	63.9	-21.9%	12.7%
Travel	192.9	72.8	68.3	-64.6%	-6.2%
Construction	1.7	2.3	3.0	75.0%	25.9%
Insurance services	16.7	20.4	21.6	29.9%	5.9%
Financial services	114.8	144.3	162.0	41.2%	12.3%
Charges for the use of intellectual property	113.0	113.8	120.7	6.9%	6.1%
Telecom, computer, and information services	43.1	56.7	58.7	36.1%	3.5%
Other business services	153.1	183.2	210.0	37.2%	14.7%
Personal, cultural, and recreational services	23.6	20.4	23.3	-1.4%	13.9%
Government goods and services	18.8	21.6	23.1	23.1%	6.8%

Source: U.S. Department of Commerce, Balance of Payments basis for total and services, Census basis for goods sectors

### A. U.S. Goods Exports

U.S. goods exports increased 23.3 percent (\$333.1 billion) in 2021 to a record of \$1.8 trillion (*Table 1*). U.S. manufacturing exports, which accounted for nearly 80 percent of total goods exports, increased 19.6 percent (\$228.5 billion) in 2021 to \$1.4 trillion, while agricultural exports, which accounted for 10.4 percent of total goods exports, increased 17.8 percent (\$27.6 billion) to \$182.8 billion (*Table 1*).

Of the major end-use goods sectors, U.S. export growth in 2021 ranged between 12.3 percent for autos and auto parts and 36.4 percent for industrial supplies. Four categories, 1) foods, feeds, and beverages, 2) industrial supplies, 3) consumer goods, and 4) other goods, showed record exports.

Over the last five years (2016 to 2021), U.S. goods exports have increased 20.9 percent (\$304.6 billion). Over the same time period, U.S. agricultural exports increased 26.4 percent (\$38.2 billion), while U.S. manufacturing exports increased 10.5 percent (\$132.7 billion). Of the major end-use categories, industrial supplies and materials had the largest increase in value, up \$238.3 billion (60.0 percent) while petroleum exports, a subset of industrial supplies, increased \$107.2 billion (120.7 percent). Goods sectors with the largest export declines in value included capital goods, down \$138 million (0.03 percent); and, autos and auto parts, down \$6.8 billion (4.5 percent).

	Value (\$Billions)			% Change	
	2016	2020	2021	16-21	20-21
Canada	266.7	255.4	307.6	15.3%	20.4%
Mexico	230.2	211.5	276.5	20.1%	30.7%
China	115.6	124.5	151.1	30.7%	21.4%
Japan	63.2	63.8	75.0	18.5%	17.6%
European Union (27)	214.5	231.2	271.6	26.7%	17.5%
Latin America (excluding Mexico)	135.9	128.8	174.6	28.5%	35.5%
Pacific Rim (excluding Japan and China)	183.1	186.3	232.9	27.2%	25.0%
FTA Countries	676.1	648.9	822.0	21.6%	26.7%
Advanced Economies	789.6	790.2	943.8	19.5%	19.4%
Emerging Markets and Developing Economies	654.6	630.1	804.8	22.9%	27.7%

Source: U.S. Department of Commerce, Census basis  
Advanced Economies and Emerging Markets as defined by the IMF

In 2021, U.S. goods exports increased to the top five export markets: Canada (up 20.2 percent), Mexico (up 30.7 percent), China (up 21.4 percent), Japan (up 17.6 percent), and the European Union (27) (up 17.5 percent) (*Table 2*). U.S. goods exports to the 20 U.S. FTA partners<sup>40</sup> increased 26.7 percent<sup>41</sup>. U.S. goods exports to advanced economies, accounting for nearly 54.0 percent of U.S. total goods exports, increased 19.4 percent, while U.S. goods exports to emerging markets and developing economies increased 27.7 percent.

## **B. U.S. Services Exports**

U.S. exports of services increased 8.6 percent (\$60.9 billion) to \$766.6 billion in 2021, but were down 1.8 percent (\$14.4 billion) since 2016 (*Table 1*). U.S. services exports accounted for 30.3 percent of the level of U.S. goods and services exports in 2021.

Of the eleven major services sectors, nine showed export gains in 2021 ranging from 5.9 percent (\$1.2 billion) for insurance services to 25.9 percent (\$608 million) for construction. Only travel services, down

<sup>40</sup> The United States has FTAs entered into force with 20 countries: Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Korea, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, and Singapore.

<sup>41</sup> The 20 countries with which the United States currently has FTAs entered into force accounted for a 46.8 percent of total U.S. goods exports in 2021.

6.2 percent (\$4.5 billion) and maintenance and repair services, down 10.2 percent (\$1.4 billion) showed export declines.

Over the last five years (2016 to 2021), U.S. services exports decreased 1.8 percent (\$14.4 billion). U.S. service sectors with the largest export declines included travel services, down 64.6 percent (\$124.6 billion); maintenance and repair services, down 44.8 percent (\$9.7 billion); and, transportation services, down 21.9 percent (\$17.9 billion). Somewhat offsetting these export declines were export gains in construction, up 75.0 percent (\$1.3 billion); financial services, up 41.2 percent (\$47.3 billion); and, telecommunications, computer, and information services, up 36.1 percent (\$15.6 billion).

The United Kingdom was the largest purchaser of U.S. services exports in 2020 (latest data available), accounting for nearly nine percent (\$62.7 billion) of total U.S. services exports. The next four largest purchasers of services exports in 2020 were: Ireland (\$61.9 billion), Canada (\$53.7 billion), Switzerland (\$42.0 billion), and China (\$40.4 billion). Regionally, in 2020, the United States exported \$172.8 billion in services to the European Union; \$192.5 billion to the Asia/Pacific Rim region; \$114.3 billion to the Asia/Pacific Rim region, excluding Japan and China); \$102.8 billion to Latin America, excluding Mexico; and, \$77.1 billion to Canada and Mexico (the United States–Mexico–Canada Agreement countries).

### III. Imports

U.S. imports of goods and services increased 20.5 percent (\$576.5 billion) in 2021, to a record \$3.4 trillion. U.S. goods imports were up 21.3 percent (\$501.8 billion) to a record \$2.9 trillion and U.S. services imports were up 16.2 percent (\$74.7 billion) to \$535.0 billion (*Table 3*).

Table 3 - U.S. Imports					
	Value (\$Billions)			% Change	
	2016	2020	2021	16-21	20-21
<b>Total Goods and Services</b>	<b>2,719.8</b>	<b>2,811.1</b>	<b>3,387.7</b>	<b>24.6%</b>	<b>20.5%</b>
<b>Goods on a BOP Basis</b>	<b>2,207.2</b>	<b>2,350.8</b>	<b>2,852.6</b>	<b>29.2%</b>	<b>21.3%</b>
Foods, Feeds, Beverages	130.0	154.3	182.1	40.1%	18.0%
Industrial Supplies	443.3	479.5	649.2	46.5%	35.4%
Capital Goods	589.7	645.3	762.8	29.4%	18.2%
Autos and Auto Parts	349.9	310.6	347.4	-0.7%	11.9%
Consumer Goods	583.1	639.9	766.7	31.5%	19.8%
Other Goods	90.8	106.4	124.7	37.3%	17.2%
Petroleum	182.0	193.8	204.5	12.4%	5.5%
Manufacturing	1,911.3	2,068.3	2,463.0	28.9%	19.1%
Agriculture	123.3	146.7	156.4	26.9%	6.6%
<b>Services</b>	<b>512.6</b>	<b>460.3</b>	<b>535.0</b>	<b>4.4%</b>	<b>16.2%</b>
Maintenance and repair services	7.6	6.1	7.7	1.4%	26.5%
Transport	92.4	72.4	104.6	13.2%	44.4%
Travel	109.2	35.8	57.8	-47.1%	61.3%
Construction	1.8	1.1	1.3	-27.9%	12.7%
Insurance services	52.8	55.6	56.4	6.8%	1.4%
Financial services	32.7	42.3	43.8	34.2%	3.7%
Charges for the use of intellectual property	42.0	43.0	45.0	7.2%	4.7%
Telecom, computer, and information services	39.7	38.6	40.3	1.5%	4.4%
Other business services	100.5	117.7	125.6	24.9%	6.7%
Personal, cultural, and recreational services	12.5	23.2	27.3	117.8%	17.9%
Government goods and services	21.5	24.6	25.3	17.6%	3.0%

Source: U.S. Department of Commerce, Balance of Payments basis, Census basis for goods sectors

#### A. U.S. Goods Imports

U.S. goods imports increased 21.3 percent (\$501.8 billion) in 2021 to a record \$2.9 trillion, accounting for 84.2 percent of total imports (*Table 3*). U.S. manufacturing imports, which accounted for nearly 87 percent of total goods imports, increased 19.1 percent (\$394.7 billion) in 2021. U.S. agriculture imports, accounting for 5.5 percent of total goods imports, increased 6.6 percent (\$9.7 billion).

Of the major end-use goods sectors, all showed import gains in 2021 ranging from 11.9 percent (\$36.8 billion) for autos and auto parts to 35.4 percent (\$169.7 billion) for industrial supplies. Imports of food, feeds, and beverages, capital goods, and consumer goods were records.

Over the last five years (2016 to 2021), U.S. goods imports increased 29.2 percent (\$645.5 billion). Over this same time period, U.S. manufacturing imports increased 28.9 percent (\$551.7 billion), while agricultural imports increased 26.9 percent (\$33.2 billion). All end-use goods sectors showed import gains except for autos and auto parts which declined 0.7 percent (\$2.5 billion). Import gains ranged between 29.4 percent (\$173.1 billion) for capital goods to 46.5 percent (\$205.9 billion) for industrial supplies.

<b>Table 4 - U.S. Goods Imports from Selected Countries/Regions</b>					
	<b>Value (\$Billions)</b>			<b>% Change</b>	
	<b>2016</b>	<b>2020</b>	<b>2021</b>	<b>16-21</b>	<b>20-21</b>
Canada	277.7	270.3	357.2	28.6%	32.1%
Mexico	293.5	325.2	384.7	31.1%	18.3%
China	462.4	434.7	506.4	9.5%	16.5%
Japan	132.0	119.5	135.1	2.4%	13.1%
European Union (27)	362.1	415.5	491.3	35.7%	18.2%
Latin America (excluding Mexico)	107.6	90.9	121.0	12.4%	33.0%
Pacific Rim (excluding Japan and China)	213.9	269.6	320.6	49.9%	18.9%
FTA Countries	747.7	787.3	970.2	29.7%	23.2%
Advanced Economies	1,023.0	1,126.5	1,330.4	30.0%	18.1%
Emerging Markets and Developing Economies	1,162.6	1,208.7	1,501.4	29.1%	24.2%

Source: U.S. Department of Commerce, Census basis  
Advanced Economies and Emerging Markets as defined by the IMF

In 2021, U.S. goods imports increased from all of our top five import suppliers, Canada (up 32.1 percent), Mexico (up 18.3 percent), the European Union (up 18.2 percent), China (up 16.5 percent), and Japan (up 13.1 percent) (*Table 4*). U.S. goods imports from our 20 FTA partners increased 23.2 percent in 2021.<sup>42</sup> U.S. goods imports from advanced economies, accounting for 47.0 percent of U.S. total goods imports, increased 18.1 percent, while goods imports from emerging markets and developing economies increased 24.2 percent.

## **B. U.S. Services Imports**

U.S. services imports increased 16.2 percent (\$74.7 billion) to \$535.0 billion in 2021, and were up 4.4 percent (\$22.4 billion) since 2016 (*Table 3*). U.S. services imports accounted for 15.8 percent of U.S. goods and services imports in 2021.

U.S. services imports increased for all of the major services sectors in 2021, ranging between 1.4 percent (\$779 million) for insurance services and 61.3 percent (\$22.0 billion) for travel services. Four sectors, 1) financial services (\$43.8 billion), 2) intellectual property (\$45.0 billion), 3) other business services (\$125.6 billion) and personal, cultural, and 4) recreational services (\$27.3 billion), reached record levels.

<sup>42</sup> The 20 countries with which the United States currently has FTAs entered into force accounted for 34.2 percent of total goods imports in 2021.

Over the last five years (2016 to 2021), U.S. services imports increased 4.4 percent (\$22.4 billion). Services imports increased for nine of the eleven sectors, with the largest import growth being personal, cultural, and recreational services up 117.8 percent (\$14.8 billion) and financial services up 34.2 percent (\$11.2 billion). Services imports declined in two sectors, travel was down 47.1 percent (\$51.4 billion) and construction was down 27.9 percent (\$493 million).

The United Kingdom remained our largest supplier of services, accounting for 11 percent (\$52.5 billion) of total U.S. services imports in 2020 (latest data available). The next four largest suppliers of U.S. services imports in 2020 were: Germany (\$31.6 billion), Japan (\$30.9 billion), Canada (29.3 billion), and Bermuda (\$29.2 billion). Regionally, in 2020, the United States imported \$111.3 billion of services from the European Union, \$127.2 billion from the Asia/Pacific Rim region (\$80.8 billion, excluding Japan and China), \$70.8 billion from Latin America (excluding Mexico), and \$46.5 billion from Canada and Mexico (the United States–Mexico–Canada Agreement countries).

## IV. The U.S. Trade Balance

The total U.S. deficit in goods and services trade<sup>43</sup> increased 27.0 percent (\$182.4 billion) in 2021 to a record \$859.1 billion. While the U.S. deficit increased as a share of GDP, from 3.2 percent of GDP in 2020 to 3.7 percent of GDP in 2021, this was still substantially lower than its record high of 5.5 percent in 2006.

The U.S. deficit in goods trade alone increased 18.3 percent (\$168.7 billion) from \$922.0 billion in 2020 (4.4 percent of GDP) to a record \$1.1 trillion in 2021 (4.7 percent of GDP), while the services trade surplus decreased 5.6 percent (\$13.8 billion), from \$245.3 billion in 2020 (1.2 percent of GDP) to \$231.5 billion in 2021 (1.0 percent of GDP). The services surplus in 2021 was the lowest since 2012 (\$215.2 billion).

<b>Table 5 - U.S. Trade Balances</b>						
	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>U.S. Trade Balances as a share of GDP</b>						
<b>Goods and Services</b>	<b>-2.6%</b>	<b>-2.6%</b>	<b>-2.8%</b>	<b>-2.7%</b>	<b>-3.2%</b>	<b>-3.7%</b>
Goods	-4.0%	-4.1%	-4.3%	-4.0%	-4.4%	-4.7%
Services	1.4%	1.5%	1.5%	1.3%	1.2%	1.0%
<b>U.S. Trade Balances with the World (\$Billions)</b>						
<b>Goods and Services</b>	<b>-481.5</b>	<b>-512.7</b>	<b>-581.0</b>	<b>-576.3</b>	<b>-676.7</b>	<b>-859.1</b>
Goods	-749.8	-799.3	-878.7	-861.5	-922.0	-1,090.7
Services	268.3	286.6	297.8	285.2	245.3	231.5

Source: U.S. Department of Commerce

<sup>43</sup> On a balance of payments basis.

# 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)
- Agreement between the United States of America, the United Mexican States, and Canada (July 1, 2020)
  - i. Decision No. 3 of the Free Trade Commission of the CUSMA, T-MEC, USMCA (“Agreement”) (Signed December 8, 2021, January 2, 2022, and January 24, 2022; retroactively effective July 1, 2020)
  - ii. Decision No. 2 of the Free Trade Commission of the CUSMA, T-MEC, USMCA (“Agreement”) (May 18, 2021)
  - iii. Decision No. 1 of the Free Trade Commission of the CUSMA, T-MEC, USMCA (“Agreement”) (Signed July 2, 2020; retroactively effective July 1, 2020)
- Agreement on Environmental Cooperation between the Governments of the United States of America, the United Mexican States, and Canada (July 1, 2020)
- Environment Cooperation and Customs Verification Agreement between the United States and Mexico (July 1, 2020)
- 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)
  - xviii. Exchange of letters between the United States and Costa Rica regarding Costa Rica's conformity assessment procedures for new pneumatic tires (July 31, 2020)
- 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)
- Treaty Between the United States of America and the Government of the Republic of Albania Concerning the Encouragement and Reciprocal Protection of Investment (January 4, 1998)

### **Argentina**

- Private Courier Mail Agreement (May 25, 1989)
- Treaty Between the United States of America and the Argentine Republic Concerning the Reciprocal Encouragement and Protection of Investment (October 20, 1994)

### **Armenia**

- Agreement on Bilateral Trade Relations (April 7, 1992)
- Treaty Between the United States of America and the Republic of Armenia Concerning the Reciprocal Encouragement and Protection of Investment (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)
- Treaty Between the Government of the United States of America and the Government of the Republic of Azerbaijan Concerning the Encouragement and Reciprocal Protection of Investment (August 2, 2001)

### **Bahrain**

- Treaty Between the Government of the United States of America and the Government of the State of Bahrain Concerning the Encouragement and Reciprocal Protection of Investment (May 30, 2001)
- Agreement between the Government of the United States of America and the Government of the Kingdom of Bahrain on the Establishment of a Free Trade Area (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**

- Treaty Between the United States of America and the People's Republic of Bangladesh Concerning the Reciprocal Encouragement and Protection of Investment (July 25, 1989)

### **Belarus**

- Agreement on Bilateral Trade Relations (February 16, 1993)

### **Bolivia**

- Treaty Between the Government of the United States of America and the Government of the Republic of Bolivia Concerning the Encouragement and Reciprocal Protection of Investment (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.)
- Exchange of Letters between the United States and Bolivia Regarding Certain Distinctive Products (January 6, 2020)

### **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)
- Protocol to the Agreement on Trade and Economic Cooperation Between the Government of the United States of America and the Federative Republic of Brazil Relating to Trade Rules and Transparency (February 2, 2022)

### **Bulgaria**

- Agreement on Trade Relations (November 22, 1991)
- Treaty Between the United States of America and the Republic of Bulgaria Concerning the Encouragement and Reciprocal Protection of Investment (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**

- Treaty Between the United States of America and the Republic of Cameroon Concerning the Reciprocal Encouragement and Protection of Investment (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)
- United States–Canada Exchange of Letters on Energy (July 1, 2020)
- United States–Canada Exchange of Letters on Natural Water Resources (July 1, 2020)

### **Caribbean Community (CARICOM)**

- Trade and Investment Council Agreement (July 22, 1991)

### **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)
- Agreement on U.S.–China Agricultural Cooperation (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)
- Economic and Trade Agreement between the Government of the United States of America and the Government of the People's Republic of China (February 14, 2020)

## **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)
  - viii. Decision No. 8 of the Free Trade Commission of the United States – Colombia Trade Promotion Agreement; Decision to Modify Annex 3-A, Annex 3-B, Annex 3-C, and Annex 4.1 (February 2020)
- 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)
  - Exchange of Letters Regarding Preferential Treatment for U.S. Corn (July 15, 2021)

#### **Congo, Democratic Republic of the (formerly Zaire)**

- Treaty Between the United States of America and the Republic of Zaire Concerning the Reciprocal Encouragement and Protection of Investment (July 28, 1989)

#### **Congo, Republic of the**

- Treaty Between the Government of the United States of America and the Government of the People's Republic of the Congo Concerning the Reciprocal Encouragement and Protection of Investment (August 13, 1994)

#### **Costa Rica**

- Memorandum of Understanding on Trade in Bananas (January 9, 1996)
- Exchange of Letters on Trade in Textile and Apparel Goods (May 31, 2007)

#### **Croatia**

- Memorandum of Understanding on Intellectual Property Rights (May 26, 1998)
- Treaty Between the Government of the United States of America and the Government of the Republic of Croatia Concerning the Encouragement and Reciprocal Protection of Investment (June 20, 2001)

## **Czech Republic**

- Treaty Between the United States of America and the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment (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).
- Treaty Between the United States of America and the Republic of Ecuador Concerning the Encouragement and Reciprocal Protection of Investment (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).
- Protocol to the Trade and Investment Council Agreement Between the Government of the United States and the Government of the Republic of Ecuador Relating to Trade Rules and Transparency (December 8, 2020)

## **Egypt**

- Treaty Between the United States of America and the Arab Republic of Egypt Concerning the Reciprocal Encouragement and Protection of Investments (June 27, 1992)

## **El Salvador**

- Exchange of Letters on Trade in Textile and Apparel Goods (January 27, 2006)

## **Estonia**

- Treaty Between the Government of the United States of America and the Government of the Republic of Estonia Concerning the Encouragement and Reciprocal Protection of Investment (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)
- Agreement between the United States of America and the European Union regarding tariffs on certain products (November 20, 2020)

## **Georgia**

- Agreement on Bilateral Trade Relations (August 13, 1993)
- Treaty Between the Government of the United States of America and the Government of the Republic of Georgia Concerning the Encouragement and Reciprocal Protection of Investment (August 17, 1997)

## **Grenada**

- Treaty Between the United States of America and Grenada Concerning the Reciprocal Encouragement and Protection of Investment (March 3, 1989)

## **Guatemala**

- Exchange of Letters on Trade in Textile and Apparel Goods (June 23, 2006)

## **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)
- Treaty Between the Government of the United States of America and the Government of the Republic of Honduras Concerning the Encouragement and Reciprocal Protection of Investment (July 11, 2001)
- Exchange of Letters on Trade in Textile and Apparel Goods (March 7, 2006)

## **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**

- Agreement on the Establishment of a Free Trade Area between the Government of Israel and the Government of the United States of America (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 November 22, 2021)
- 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)
- Treaty Between the United States of America and Jamaica Concerning the Reciprocal Encouragement and Protection of Investment (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)
- United States–Japan Exchange of Letters on copyright term (April 13, 2018)
- 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)
- Treaty Between the Government of the United States of America and the Hashemite Kingdom of Jordan Concerning the Encouragement and Reciprocal Protection of Investment (June 12, 2003)

### **Kazakhstan**

- Agreement on Bilateral Trade Relations (February 18, 1993)
- Treaty Between the United States of America and the Republic of Kazakhstan Concerning the Reciprocal Encouragement and Protection of Investment (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)
- Treaty Between the United States of America and the Republic of Kyrgyzstan Concerning the Encouragement and Reciprocal Protection of Investment (January 12, 1994)

#### **Latvia**

- Agreement on Bilateral Trade Relations (August 21, 1992)
- Treaty Between the Government of the United States of America and the Government of the Republic of Latvia Concerning the Encouragement and Reciprocal Protection of Investment (November 26, 1996; amended May 1, 2004)
- Agreement on Trade & Intellectual Property Rights Protection (January 20, 1995)

## **Lithuania**

- Treaty Between the Government of the United States of America and the Government of the Republic of Lithuania Concerning the Encouragement and Reciprocal Protection of Investment (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)
- United States–Mexico Exchange of Letters on Safety Standards in the Automotive Sector (July 1, 2020)
- United States–Mexico Exchange of Letters on Prior Users (July 1, 2020)
- United States–Mexico Exchange of Letters on Distilled Spirits (July 1, 2020)
- United States–Mexico Exchange of Letters on Cheeses (July 1, 2020)

### **Micronesia**

- Compact of Free Association with the Federated States of Micronesia (November 3, 1986)

### **Moldova**

- Agreement on Bilateral Trade Relations (July 2, 1992)
- Treaty Between the United States of America and the Republic of Moldova Concerning the Encouragement and Reciprocal Protection of Investment (November 25, 1994)

### **Mongolia**

- Agreement on Bilateral Trade Relations (January 23, 1991)
- Treaty Between the United States of America and Mongolia Concerning the Encouragement and Reciprocal Protection of Investment (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**

- Treaty Between the United States of America and the Kingdom of Morocco Concerning the Encouragement and Reciprocal Protection of Investments (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**

- Treaty Between the Government of the United States of America and the Government of Mozambique Concerning the Encouragement and Reciprocal Protection of Investment (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**

- Agreement between the Government of the United States of America and the Government of the Sultanate of Oman on the Establishment of a Free Trade Area (January 1, 2009)

## **Palau**

- Compact of Free Association with the Republic of Palau (October 1, 1994)

## **Panama**

- Treaty Between the United States of America and the Republic of Panama Concerning the Treatment and Protection of Investments (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)

### **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**

- Treaty Between the United States of America and the Republic of Poland Concerning Business and Economic Relations (August 6, 1994; amended May 1, 2004)

## **Romania**

- Agreement on Bilateral Trade Relations (April 3, 1992)
- Treaty Between the Government of the United States of America and the Government of Romania Concerning the Reciprocal Encouragement and Protection of Investment (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**

- Treaty Between the Government of the United States and the Government of the Republic of Rwanda Concerning the Encouragement and Reciprocal Protection of Investment (January 1, 2012)

#### **Senegal**

- Treaty Between the United States of America and the Republic of Senegal Concerning the Reciprocal Encouragement and Protection of Investment (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**

- Treaty Between the United States of America and the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment (December 19, 1992; amended May 1, 2004)

#### **Sri Lanka**

- Agreement on the Protection and Enforcement of Intellectual Property Rights (September 20, 1991)
- Treaty Between the United States of America and the Democratic Socialist Republic of Sri Lanka Concerning the Encouragement and Reciprocal Protection of Investment (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)
- Treaty Between the United States of America and the Government of the Republic of Trinidad and Tobago Concerning the Encouragement and Reciprocal Protection of Investment (December 26, 1996)

## **Tunisia**

- Treaty Between the United States of America and the Republic of Tunisia Concerning Reciprocal Encouragement and Protection of Investment (February 7, 1993)

## **Turkey**

- Treaty Between the United States of America and the Republic of Turkey Concerning the Reciprocal Encouragement and Protection of Investments (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)
- Treaty Between the United States of America and Ukraine Concerning the Encouragement and Reciprocal Protection of Investment (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)

## **United Kingdom**

- Agreement on Trade in Wine (December 31, 2020)
- Agreement on Mutual Recognition of Certain Distilled Spirits/Spirits Drinks (December 31, 2020)
- Agreement on Mutual Recognition (including sectoral annexes on Telecommunications Equipment, Electromagnetic Compatibility, and Pharmaceutical Good Manufacturing Practices) (December 31, 2020)
- Agreement on the Mutual Recognition of Certificates of Conformity for Marine Equipment (December 31, 2020)
- Bilateral Agreement on Prudential Measures Regarding Insurance and Reinsurance (December 31, 2020)

## **Uruguay**

- Treaty Between the United States of America and the Oriental Republic of Uruguay Concerning the Encouragement and Reciprocal Protection of Investment (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)
- Agreement between the Government of the Socialist Republic of Viet Nam and the Government of the United States of America on Illegal Logging and Timber Trade (October 1, 2021)

## **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)

### **Bilateral Agreements**

#### **Belarus**

- Treaty Between the United States of America and the Republic of Belarus Concerning the Encouragement and Reciprocal Protection of Investment (signed January 15, 1994)

#### **El Salvador**

- Treaty Between the Government of the United States of America and the Government of the Republic of El Salvador Concerning the Encouragement and Reciprocal Protection of Investment In (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) (2020)

#### **Kazakhstan**

- Exchange of Letters on Sanitary and Phyto-sanitary Measures of Kazakhstan (signed July 2, 2015)

#### **Lithuania**

- Trade and Intellectual Property Rights Agreement (April 26, 1994; requires approval by Lithuanian legislature)

## **Nicaragua**

- Treaty Between the Government of the United States of America and the Government of the Republic of Nicaragua Concerning the Encouragement and Reciprocal Protection of Investment (signed July 1, 1995)

## **Russia**

- Treaty Between the United States of America and the Russian Federation Concerning the Encouragement and Reciprocal Protection of Investment (signed June 17, 1992)

## **United Kingdom**

- Memorandum of Understanding in the form of an Exchange of Letters between the Government of the United States and the Government of the United Kingdom with respect to the Obligations of the United Kingdom concerning Tariff Rate Quotas (TRQs) under Article XXVII of the GATT 1994 (signed June 30-July 1, 2021)

## **Uzbekistan**

- Treaty Between the Government of the United States of America and the Government of the Republic of Uzbekistan Concerning the Encouragement and Reciprocal Protection of Investment (signed December 16, 1994)

### **III. Other Trade-Related Agreements, Understandings and Declarations**

Following is a list of other trade-related agreements, understandings and declarations negotiated by the Office of the United States Trade Representative from January 1993. These documents provide the framework for negotiations leading to future trade agreements or establish mechanisms for structured dialogue in order to develop specific steps and strategies for addressing and resolving trade, investment, intellectual property, and other issues among the signatories.

#### **Multilateral Agreements and Declarations**

- Second Ministerial of the World Trade Organization, Ministerial Declaration on Global Electronic Commerce (May 20, 1998)
- WTO Guidelines for the Negotiation of Mutual Recognition Agreements on Accountancy (May 29, 1997)
- Asia Pacific Economic Cooperation
  - 1st Joint Ministerial Statement (November 6-7, 1989)
  - 2nd Joint Ministerial Statement (July 29-31, 1990)
  - 3rd Joint Ministerial Statement (November 12-14, 1991)
  - 4th Joint Ministerial Statement (September 10-11, 1992)
  - 5th Joint Ministerial Statement (November 17-19, 1993)
  - Leaders' Economic Vision Statement (November 20, 1993)
  - Ministers Responsible for Trade Statement (October 6, 1994)
  - 6th Joint Ministerial Statement (November 11-12, 1994)
  - Leaders' Declaration of Common Resolve (November 15, 1994)
  - 7th Joint Ministerial Statement (November 16-17, 1995)
  - Leaders' Declaration for Action (November 19, 1995)
  - Ministers Responsible for Trade Statement (July 15-16, 1996)
  - 8th Joint Ministerial Statement (November 22-23, 1996)
  - Leaders' Declaration: From Vision to Action (November 25, 1996)
  - Ministers Responsible for Trade Statement (May 8-10, 1997)
  - 9th Joint Ministerial Statement (November 21-22, 1997)

- Leaders' Declaration on Connecting the APEC Community (November 25, 1997)
- Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Agreement (June 5, 1998)
- Ministers Responsible for Trade Statement (June 22-23, 1998)
- 10th Joint Ministerial Statement (November 14-15, 1998)
- Leaders' Declaration on Strengthening the Foundations for Growth (November 18, 1998)
- Ministers Responsible for Trade Statement (June 29-30, 1999)
- 11th Joint Ministerial Statement (September 9-10, 1999)
- Leaders' Declaration: The Auckland Challenge (September 13, 1999)
- Ministers Responsible for Trade Statement (June 6-7, 2000)
- 12th Joint Ministerial Statement (November 12-13, 2000)
- Leaders' Declaration: Delivering to the Community (November 16, 2000)
- Ministers Responsible for Trade Statement (June 6-7, 2001)
- 13th Joint Ministerial Statement (October 17-18, 2001)
- Leaders' Declaration: Meeting New Challenges in the New Century (October 21, 2001)
- Ministers Responsible for Trade Statement (May 29-30, 2002)
- 14th Joint Ministerial Statement (October 23-24, 2002)
- Leaders' Declaration: Expanding the Benefits of Cooperation for Economic Growth and Development-Implementing the Vision (October 27, 2002)
- Ministers Responsible for Trade Statement (June 2-3, 2003)
- 15th Joint Ministerial Statement (October 17-18, 2003)
- Declaration: A World of Differences-Partnership for the Future (October 21, 2003)
- Ministers Responsible for Trade Statement (June 4-5, 2004)
- 16th Joint Ministerial Statement (November 17-18, 2004)
- Leaders' Declaration: One Community, Our Future (November 20-21, 2004)
- Ministers Responsible for Trade Statement (June 2-3, 2005)
- 17th Joint Ministerial Statement (November 15-16, 2005)

- Leaders' Declaration: Towards One Community: Meet the Challenge, Make the Change (November 18-19, 2005)
- Ministers Responsible for Trade Statement (June 1-2, 2006)
- 18th Joint Ministerial Statement (November 15-16, 2006)
- Leaders' Declaration: Towards a Dynamic Community for Sustainable Development and Prosperity (November 18-19, 2006)
- Ministers Responsible for Trade Statement (July 5-6, 2007)
- 19th Joint Ministerial Statement (September 5-6, 2007)
- Leaders' Declaration: Strengthening our Community, Building a Sustainable Future (September 9, 2007)
- Ministers Responsible for Trade Statement (May 31-June 1, 2008)
- 20th Joint Ministerial Statement (November 19-20, 2008)
- Leaders' Declaration: A New Commitment to Asia-Pacific Development (November 22-23, 2008)
- Ministers Responsible for Trade Statement (July 21-22, 2009)
- 21st Joint Ministerial Statement (November 11-12, 2009)
- Leaders' Declaration: Sustaining Growth, Connecting The Region (November 14-15, 2009)
- Ministers Responsible for Trade Statement (June 5-6, 2010)
- 22nd Joint Ministerial Statement (November 10-11, 2010)
- Leaders' Declaration: The Yokohama Vision-Bogor and Beyond (November 13-14, 2010)
- Ministers' Responsible for Trade Statement (May 19-20, 2011)
- 23rd Joint Ministerial Statement (November 11, 2011)
- Leaders' Declaration: Toward a Seamless Regional Economy (November 12-13, 2011)
- Ministers' Responsible for Trade Statement (June 4-5, 2012)
- 24th Joint Ministerial Statement (September 5-6, 2012)
- Leaders' Declaration: Integrate to Grow, Innovate to Prosper (September 8-9, 2012)
- Ministers' Responsible for Trade Statement (April 20-21, 2013)
- 25th Joint Ministerial Statement (October 5, 2013)

- Leaders' Declaration: Resilient Asia-Pacific, Engine of Global Growth (October 8, 2013)
- Cooperation Agreement Among the Partner States of the East African Community and the United States of America on Trade Facilitation, Sanitary and Phyto-sanitary Measures, and Technical Barriers to Trade (February 26, 2015)
- Organization of American States (OAS), Inter-American Telecommunications Commission (CITEL) Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment (October 29, 1999)
- United States–Association of Southeast Asian Nations Trade and Investment Framework Arrangement (August 25, 2006)
- World Wine Trade Group Memorandum of Understanding on Certification Requirements (October 20, 2011)
- 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**

- Agreement Between the Government of the United States of America and the Government of the Transitional Islamic State of Afghanistan Concerning the Development of Trade and Investment Relations (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**

- Agreement Between the Government of the United States of America and the Government of the People's Democratic Republic of Algeria Concerning the Development of Trade and Investment Relations (July 13, 2001)

### **Angola**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Angola (May 19, 2009)

### **Argentina**

- Bilateral Council on Trade and Investment (February 2002)
- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Argentine Republic (March 23, 2016)

## **Armenia**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Armenia (November 13, 2015)

## **Association of Southeast Asian Nations (ASEAN)**

- Trade and Investment Framework Agreement Between the United States of America and the Association of Southeast Asian Nations (August 25, 2006)

## **Bangladesh**

- Agreement Between the Government of the United States of America and the Government of the People's Republic of Bangladesh on a Trade and Investment Cooperation Forum (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**

- Agreement on Trade and Economic Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil (March 19, 2011)

## **Brunei Darussalam**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of Brunei Darussalam (December 16, 2002)

## **Burma**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of the Union of Myanmar (May 13, 2013)

## **Cambodia**

- Trade and Investment Framework Agreement Between the United States of America and the Royal Government of Cambodia (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**

- Framework Agreement Between the Government of the United States of America, the Government of the Republic of Kazakhstan, the Government of the Kyrgyz Republic, the Government of the Republic of Tajikistan, the Government Turkmenistan, and the Government of the Republic of Uzbekistan Concerning the Development of Trade and Investment Relations (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 (COMESA)**

- Agreement Between the Government of the United States of America and the Common Market for Eastern and Southern Africa Concerning the Development of Trade and Investment Relations (October 29, 2001)

### **East African Community**

- Trade and Investment Framework Agreement Between the East African Community and the Government of the United States of America (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 (ECOWAS)**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Economic Community of West African States (March 9, 2015)

### **Egypt**

- Agreement Between the Government of the United States of America and the Arab Republic of Egypt Concerning the Development of Trade and Investment Relations (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)
- United States–EU Organic Equivalency Arrangement (February 15, 2012)

### **Fiji**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Fiji (October 15, 2020)

### **Georgia**

- Trade and Investment Framework Agreement Between the United States of America and Georgia (June 20, 2007)
- United States–Georgia Trade Principles for Information and Communication Technology Services (October 30, 2015)

### **Ghana**

- Agreement Between the Government of the United States of America and the Government of the Republic of Ghana Concerning the Development of Trade and Investment Relations (February 26, 1999)

### **Gulf Cooperation Council (GCC)**

- Framework Agreement for Trade, Economic, Investment and Technical Cooperation Between the Cooperation Council for the Arab States of the Gulf and the Government of the United States of America (signed September 25, 2012)

### **Iceland**

- Agreement Between the Government of the United States of America and the Government of Iceland on Trade and Investment Cooperation (January 15, 2009)

### **India**

- United States–India Trade Policy Forum, Framework for Cooperation on Trade and Investment (March 17, 2010)

### **Indonesia**

- Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning the Establishment of the Council on Trade and Investment (July 16, 1996)
- Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Indonesia on Combating Illegal Logging and Associated Trade (November 16, 2006)

- Memorandum of Understanding Between the Government of the United States of America 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**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Iraq Concerning the Development of Trade and Investment Relations (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)
- United States–Japan Organic Equivalency Arrangement Appendix 1, for organic livestock products and organic processed food products containing livestock ingredients (July 16, 2020)

#### **Korea**

- United States–Korea Organic Equivalency Arrangement (June 30, 2014)

#### **Kuwait**

- Agreement Between the Government of the United States of America and the Government of the State of Kuwait Concerning the Development of Trade and Investment Relations (February 6, 2004)

#### **Laos**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Lao People's Democratic Republic (February 17, 2016)

#### **Lebanon**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Lebanon Concerning the Development of Trade and Investment Relations (November 30, 2006)

## **Liberia**

- Trade and Investment Framework Agreement Between the United States of America and the Republic of Liberia (February 15, 2007)

## **Libya**

- Trade and Investment Framework Agreement Between the Government of the State of Libya and the Government of the United States of America (November 5, 2019)

## **Malaysia**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of Malaysia (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**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Maldives (October 17, 2009)

## **Mauritius**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Mauritius (September 18, 2006)
- United States–Mauritius Trade Principles for Information and Communication Technology Services (June 18, 2012)

## **Mongolia**

- Agreement Between the Government of the United States of America and the Government of Mongolia Concerning the Development of Trade and Investment Relations (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**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Mozambique Concerning the Development of Trade and Investment Relations (June 21, 2005)

## **Nepal**

- Trade and Investment Framework Agreement Between the Government of United States of America and the Government of Nepal (April 15, 2011)

## **New Zealand**

- Agreement Between the Government of the United States of America and the Government of New Zealand Concerning a Framework of Principles and Procedures for Consultations Regarding Trade and Investment Relations (October 2, 1992)

## **Nigeria**

- Agreement Between the Government of the United States of America and the Government of the Federal Public of Nigeria Concerning the Development of Trade and Investment Relations (February 16, 2000)

## **Oman**

- Agreement Between the Government of the United States of America and the Government of the Sultanate of Oman Concerning the Development of Trade and Investment Relations (July 7, 2004)

## **Pakistan**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Islamic Republic of Pakistan Concerning the Development of Trade and Investment Relations (June 25, 2003)

## **Paraguay**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Paraguay (January 13, 2017)

## **Philippines**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of the Philippines (November 9, 1989)
- Protocol to the 1989 Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of the Philippines Concerning Customs Administration and Trade Facilitation (November 13, 2011)

## **Qatar**

- Agreement Between the Government of the United States of America and the Government of the State of Qatar Concerning the Development of Trade and Investment Relations (March 19, 2004)

## **Rwanda**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Rwanda Concerning the Development of Trade and Investment Relations (June 7, 2006)

## **Saudi Arabia**

- Agreement Between the Government of the United States of America and the Government of the Kingdom of Saudi Arabia Concerning the Development of Trade and Investment Relations (July 31, 2003)

## **South Africa**

- Agreement Concerning the Development of Trade and Investment Between the Government of the Republic of South Africa and the Government of the United States of America (June 18, 2012)

## **Southern Africa Customs Union**

- Cooperative Agreement Between the United States Of America and the Southern African Customs Union to Foster Trade, Investment and Development (July 16, 2008)

## **Sri Lanka**

- Trade and Investment Framework Agreement Between the United States of America and the Democratic Socialist Republic of Sri Lanka (July 25, 2002)

## **Switzerland**

- Agreement between the Government of the United States of America and the Government of the Swiss Confederation Establishing a Trade and Investment Cooperation Forum (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)
- United States–Taiwan Organic Equivalency Arrangement (May 30, 2020)

## **Thailand**

- Trade and Investment Framework Agreement Between the United States of America and the Kingdom of Thailand (October 23, 2002)

## **Tunisia**

- Agreement Between the Government of the United States of America and the Government of Tunisia Concerning the Development of Trade and Investment Relations (October 2, 2002)

## **Turkey**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Republic of Turkey (September 29, 1999)

## **Ukraine**

- Trade and Investment Cooperation Agreement Between the Government of Ukraine and the Government of the United States of America (March 28, 2008)

## **United Arab Emirates (UAE)**

- Agreement Between the Government of the United States of America and the Government of the United Arab Emirates Concerning the Development of Trade and Investment Relations (March 15, 2004)

## **United Kingdom**

- United States–United Kingdom Organic Equivalency Arrangement (January 1, 2021)

## **Uruguay**

- United States–Uruguay Bilateral and Commercial Trade Review (May 20, 1999)
- Joint Commission on Trade and Investment (January 25, 2007)
- Trade and Investment Framework Agreement Between the United States of America and the Oriental Republic of Uruguay (January 25, 2007)
  - i. Protocol to the 2007 Trade and Investment Framework Agreement Between the United States of America and the Oriental Republic of Uruguay Concerning Trade and Environment Public Participation (October 2, 2008)
  - ii. Protocol to the 2007 Trade and Investment Framework Agreement Between the United States of America and the Oriental Republic of Uruguay Concerning Trade Facilitation (October 2, 2008)

## **Vietnam**

- Trade and Investment Framework Agreement Between the Government of the United States of America and the Government of the Socialist Republic of Vietnam (June 21, 2007)

## **West African Economic and Monetary Union**

- Agreement Between the Government of the United States of America and the West African Economic and Monetary Union Concerning the Development of Trade and Investment Framework Relations (April 24, 2002)

## **Yemen**

- Agreement Between the Government of the United States of America and the Government of the Republic of Yemen Concerning the Development of Trade and Investment Relations (February 6, 2004)

# ANNEX III

# **BACKGROUND INFORMATION ON THE WTO**

**MEMBERSHIP OF THE WORLD TRADE ORGANIZATION**  
As of December 31, 2021 (164 Members)

<b>Government</b>	<b>Entry Into Force</b>	<b>Government</b>	<b>Entry Into Force</b>
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

**2022 Budget for the WTO Secretariat**  
(in thousand Swiss francs)

Part	Section	Budget Line	2022 Budget	
A Staffing Resources	1. Staff Expenditure	i) Staff Remuneration	88,520	
		ii) Staff Pension & Post-Employment Benefits	23,430	
		iii) Staff Health & Invalidation Insurance	6,794	
		iv) Staff Family & International Benefits	10,921	
		v) Other Staff Expenditure	1,900	
	2. Temporary Assistance	i) Short-Term Staff	9,850	
		ii) Consulting	6,424	
		iii) Panelists	1,000	
	<b>A Staffing Resources Total</b>			<b>148,840</b>
	B Other Resources	3. General Services	i) Telecommunication & Post	541
ii) Contractual Services & Maintenance			11,613	
iii) Energy & Supplies			1,966	
iv) Documentation & Publication			1,458	
v) Other / Miscellaneous			48	
4. Travel & Hospitality		i) Travel	7,693	
		ii) Hospitality	214	
5. Implementing Partners		i) Implementing Partners	213	
6. Capital Expenditure		i) Procurement of Fixed Assets	2,555	
		ii) Rental & Leasing of Equipment	540	
7. Financial Expenditure		i) Bank & Interest Charges	880	
		ii) Building Loan Reimbursement	1,200	
<b>B Other Resources Total</b>			<b>28,921</b>	
C Operating Funds and ITC	8. Contributions to ITC & Special Reserves	i) Contribution to ITC	18,243	
		ii) Appellate Body Operating Fund	0	
		iii) Ministerial Conference Operating Fund	600	
		iv) Building Renovation Fund	600	
<b>C Operating Funds and ITC Total</b>			<b>19,443</b>	
<b>Grand Total</b>			<b>197,204</b>	

## Scale of Contributions for 2022

(in Swiss francs and with a minimum contribution of 0.015 percent)

Member	2022 Contribution CHF	2022 Contribution %	Credit for 2020 Budgetary Surplus CHF	Net Contribution for 2022 CHF
Afghanistan	39,100	0.020%	-1,960	37,140
Albania	43,010	0.022%	-2,156	40,854
Angola	273,700	0.140%	-13,720	259,980
Antigua and Barbuda	29,325	0.015%	-1,470	27,855
Argentina	670,565	0.343%	-33,614	636,951
Armenia	43,010	0.022%	-2,156	40,854
Australia	2,525,860	1.292%	-126,616	2,399,244
Austria	1,927,630	0.986%	-96,628	1,831,002
Bahrain, Kingdom of	226,780	0.116%	-11,368	215,412
Bangladesh	412,505	0.211%	-20,678	391,827
Barbados	29,325	0.015%	-1,470	27,855
Belgium	3,560,055	1.821%	-178,458	3,381,597
Belize	29,325	0.015%	-1,470	27,855
Benin	31,280	0.016%	-1,568	29,712
Bolivia, Plurinational State of	93,840	0.048%	-4,704	89,136
Botswana	62,560	0.032%	-3,136	59,424
Brazil	2,107,490	1.078%	-105,644	2,001,846
Brunei Darussalam	50,830	0.026%	-2,548	48,282
Bulgaria	332,350	0.170%	-16,660	315,690
Burkina Faso	35,190	0.018%	-1,764	33,426
Burundi	29,325	0.015%	-1,470	27,855
Cabo Verde	29,325	0.015%	-1,470	27,855
Cambodia	158,355	0.081%	-7,938	150,417
Cameroon	64,515	0.033%	-3,234	61,281
Canada	4,721,325	2.415%	-236,670	4,484,655
Central African Republic	29,325	0.015%	-1,470	27,855
Chad	33,235	0.017%	-1,666	31,569

Member	2022 Contribution CHF	2022 Contribution %	Credit for 2020 Budgetary Surplus CHF	Net Contribution for 2022 CHF
Chile	666,655	0.341%	-33,418	633,237
China	20,593,970	10.534%	-1,032,332	19,561,638
Colombia	488,750	0.250%	-24,500	464,250
Congo	68,425	0.035%	-3,430	64,995
Costa Rica	166,175	0.085%	-8,330	157,845
Côte d'Ivoire	107,525	0.055%	-5,390	102,135
Croatia	240,465	0.123%	-12,054	228,411
Cuba	113,390	0.058%	-5,684	107,706
Cyprus	142,715	0.073%	-7,154	135,561
Czech Republic	1,442,790	0.738%	-72,324	1,370,466
Democratic Republic of the Congo	121,210	0.062%	-6,076	115,134
Denmark	1,520,990	0.778%	-76,244	1,444,746
Djibouti	33,235	0.017%	-1,666	31,569
Dominica	29,325	0.015%	-1,470	27,855
Dominican Republic	177,905	0.091%	-8,918	168,987
Ecuador	205,275	0.105%	-10,290	194,985
Egypt	502,435	0.257%	-25,186	477,249
El Salvador	82,110	0.042%	-4,116	77,994
Estonia	173,995	0.089%	-8,722	165,273
Eswatini	29,325	0.015%	-1,470	27,855
European Union	0	0.000%	0	0
Fiji	29,325	0.015%	-1,470	27,855
Finland	844,560	0.432%	-42,336	802,224
France	7,464,190	3.818%	-374,164	7,090,026
Gabon	50,830	0.026%	-2,548	48,282
The Gambia	29,325	0.015%	-1,470	27,855
Georgia	76,245	0.039%	-3,822	72,423
Germany	13,997,800	7.160%	-701,680	13,296,120
Ghana	183,770	0.094%	-9,212	174,558
Greece	633,420	0.324%	-31,752	601,668
Grenada	29,325	0.015%	-1,470	27,855

Member	2022 Contribution CHF	2022 Contribution %	Credit for 2020 Budgetary Surplus CHF	Net Contribution for 2022 CHF
Guatemala	142,715	0.073%	-7,154	135,561
Guinea	33,235	0.017%	-1,666	31,569
Guinea-Bissau	29,325	0.015%	-1,470	27,855
Guyana	29,325	0.015%	-1,470	27,855
Haiti	29,325	0.015%	-1,470	27,855
Honduras	78,200	0.040%	-3,920	74,280
Hong Kong, China	5,561,975	2.845%	-278,810	5,283,165
Hungary	1,038,105	0.531%	-52,038	986,067
Iceland	87,975	0.045%	-4,410	83,565
India	4,574,700	2.340%	-229,320	4,345,380
Indonesia	1,644,155	0.841%	-82,418	1,561,737
Ireland	3,362,600	1.720%	-168,560	3,194,040
Israel	881,705	0.451%	-44,198	837,507
Italy	4,991,115	2.553%	-250,194	4,740,921
Jamaica	52,785	0.027%	-2,646	50,139
Japan	7,487,650	3.830%	-375,340	7,112,310
Jordan	162,265	0.083%	-8,134	154,131
Kazakhstan	435,965	0.223%	-21,854	414,111
Kenya	125,120	0.064%	-6,272	118,848
Korea, Republic of	5,430,990	2.778%	-272,244	5,158,746
Kuwait, the State of	537,625	0.275%	-26,950	510,675
Kyrgyz Republic	35,190	0.018%	-1,764	33,426
Lao People's Democratic Republic	56,695	0.029%	-2,842	53,853
Latvia	164,220	0.084%	-8,232	155,988
Lesotho	29,325	0.015%	-1,470	27,855
Liberia	29,325	0.015%	-1,470	27,855
Liechtenstein	64,515	0.033%	-3,234	61,281
Lithuania	303,025	0.155%	-15,190	287,835
Luxembourg	1,008,780	0.516%	-50,568	958,212
Macao, China	252,195	0.129%	-12,642	239,553
Madagascar	35,190	0.018%	-1,764	33,426

Member	2022 Contribution CHF	2022 Contribution %	Credit for 2020 Budgetary Surplus CHF	Net Contribution for 2022 CHF
Malawi	29,325	0.015%	-1,470	27,855
Malaysia	1,859,205	0.951%	-93,198	1,766,007
Maldives	29,325	0.015%	-1,470	27,855
Mali	35,190	0.018%	-1,764	33,426
Malta	154,445	0.079%	-7,742	146,703
Mauritania	29,325	0.015%	-1,470	27,855
Mauritius	54,740	0.028%	-2,744	51,996
Mexico	3,964,740	2.028%	-198,744	3,765,996
Moldova, Republic of	37,145	0.019%	-1,862	35,283
Mongolia	60,605	0.031%	-3,038	57,567
Montenegro	29,325	0.015%	-1,470	27,855
Morocco	377,315	0.193%	-18,914	358,401
Mozambique	62,560	0.032%	-3,136	59,424
Myanmar	138,805	0.071%	-6,958	131,847
Namibia	46,920	0.024%	-2,352	44,568
Nepal	60,605	0.031%	-3,038	57,567
Netherlands	5,739,880	2.936%	-287,728	5,452,152
New Zealand	467,245	0.239%	-23,422	443,823
Nicaragua	54,740	0.028%	-2,744	51,996
Niger	29,325	0.015%	-1,470	27,855
Nigeria	537,625	0.275%	-26,950	510,675
North Macedonia	62,560	0.032%	-3,136	59,424
Norway	1,219,920	0.624%	-61,152	1,158,768
Oman	322,575	0.165%	-16,170	306,405
Pakistan	373,405	0.191%	-18,718	354,687
Panama	236,555	0.121%	-11,858	224,697
Papua New Guinea	60,605	0.031%	-3,038	57,567
Paraguay	111,435	0.057%	-5,586	105,849
Peru	424,235	0.217%	-21,266	402,969
Philippines	866,065	0.443%	-43,414	822,651
Poland	2,408,560	1.232%	-120,736	2,287,824

Member	2022 Contribution CHF	2022 Contribution %	Credit for 2020 Budgetary Surplus CHF	Net Contribution for 2022 CHF
Portugal	815,235	0.417%	-40,866	774,369
Qatar	658,835	0.337%	-33,026	625,809
Romania	801,550	0.410%	-40,180	761,370
Russian Federation	3,235,525	1.655%	-162,190	3,073,335
Rwanda	29,325	0.015%	-1,470	27,855
Saint Kitts and Nevis	29,325	0.015%	-1,470	27,855
Saint Lucia	29,325	0.015%	-1,470	27,855
Saint Vincent and the Grenadines	29,325	0.015%	-1,470	27,855
Samoa	29,325	0.015%	-1,470	27,855
Saudi Arabia, Kingdom of	1,933,495	0.989%	-96,922	1,836,573
Senegal	50,830	0.026%	-2,548	48,282
Seychelles	29,325	0.015%	-1,470	27,855
Sierra Leone	29,325	0.015%	-1,470	27,855
Singapore	4,824,940	2.468%	-241,864	4,583,076
Slovak Republic	785,910	0.402%	-39,396	746,514
Slovenia	332,350	0.170%	-16,660	315,690
Solomon Islands	29,325	0.015%	-1,470	27,855
South Africa	879,750	0.450%	-44,100	835,650
Spain	3,792,700	1.940%	-190,120	3,602,580
Sri Lanka	189,635	0.097%	-9,506	180,129
Suriname	29,325	0.015%	-1,470	27,855
Sweden	2,007,785	1.027%	-100,646	1,907,139
Switzerland	3,681,265	1.883%	-184,534	3,496,731
Chinese Taipei	3,055,665	1.563%	-153,174	2,902,491
Tajikistan	29,325	0.015%	-1,470	27,855
Tanzania	84,065	0.043%	-4,214	79,851
Thailand	2,420,290	1.238%	-121,324	2,298,966
Togo	29,325	0.015%	-1,470	27,855
Tonga	29,325	0.015%	-1,470	27,855
Trinidad and Tobago	87,975	0.045%	-4,410	83,565
Tunisia	177,905	0.091%	-8,918	168,987

Member	2022 Contribution CHF	2022 Contribution %	Credit for 2020 Budgetary Surplus CHF	Net Contribution for 2022 CHF
Turkey	2,003,875	1.025%	-100,450	1,903,425
Uganda	56,695	0.029%	-2,842	53,853
Ukraine	506,345	0.259%	-25,382	480,963
United Arab Emirates	3,032,205	1.551%	-151,998	2,880,207
United Kingdom	7,380,125	3.775%	-369,950	7,010,175
United States of America	23,149,155	11.841%	-1,160,418	21,988,737
Uruguay	130,985	0.067%	-6,566	124,419
Vanuatu	29,325	0.015%	-1,470	27,855
Venezuela, Bolivarian Republic of	488,750	0.250%	-24,500	464,250
Viet Nam	1,941,315	0.993%	-97,314	1,844,001
Yemen	72,335	0.037%	-3,626	68,709
Zambia	76,245	0.039%	-3,822	72,423
Zimbabwe	50,830	0.026%	-2,548	48,282
<b>TOTAL</b>	<b>195,500,000</b>	<b>100.000%</b>	<b>-9,800,000</b>	<b>185,700,000</b>

**WTO Professional Staff Members by Nationality  
(Excluding Linguistic Staff)**

(as per information available on January 1, 2022)

	Member	Total Nbr	%
1	France	165	25.9%
2	United Kingdom	46	7.2%
3	Spain	43	6.8%
4	United States of America	28	5.0%
5	Italy	23	3.6%
6	Germany	22	3.5%
7	Canada	19	3.1%
8	Switzerland	18	2.9%
9	China	16	2.6%
10	Philippines	14	2.3%
11	India	13	2.1%
12	Brazil	12	1.9%
13	Ireland	12	1.9%
14	Australia	11	1.8%
15	Colombia	8	1.3%
16	Argentina	7	1.1%
17	Mexico	7	1.1%
18	Belgium	6	1.0%
19	Bulgaria	6	1.0%
20	Netherlands	6	1.0%
21	Russian Federation	6	1.0%
22	Finland	5	0.8%
23	Greece	5	0.8%
24	Austria	4	0.6%
25	Democratic Republic of the Congo	4	0.6%
26	Egypt	4	0.6%

	Member	Total Nbr	%
27	Hungary	4	0.6%
28	Japan	4	0.6%
29	Korea, Republic of	4	0.6%
30	Morocco	4	0.6%
31	Portugal	4	0.6%
32	Tunisia	4	0.6%
33	Turkey	4	0.6%
34	Pakistan	3	0.5%
35	Poland	3	0.5%
36	Sweden	3	0.5%
37	Uruguay	3	0.5%
38	Venezuela, Bolivarian Republic of	3	0.5%
39	Benin	2	0.3%
40	Bolivia	2	0.3%
41	Costa Rica	2	0.3%
42	Denmark	2	0.3%
43	Ecuador	2	0.3%
44	Guatemala	2	0.3%
45	Honduras	2	0.3%
46	Jamaica	2	0.3%
47	Kenya	2	0.3%
48	Malaysia	2	0.3%
49	Mauritius	2	0.3%
50	New Zealand	2	0.3%
51	Norway	2	0.3%
52	Peru	2	0.3%
53	Romania	2	0.3%
54	Sri Lanka	2	0.3%
55	Tanzania	2	0.3%

	Member	Total Nbr	%
56	The Gambia	2	0.3%
57	Trinidad and Tobago	2	0.3%
58	Uganda	2	0.3%
59	Zimbabwe	2	0.3%
60	Bangladesh	1	0.2%
61	Barbados	1	0.2%
62	Botswana	1	0.2%
63	Cameroon	1	0.2%
64	Chile	1	0.2%
65	Croatia	1	0.2%
66	Czech Republic	1	0.2%
67	Estonia	1	0.2%
68	Guinea	1	0.2%
69	Jordan	1	0.2%
70	Lithuania	1	0.2%
71	Malawi	1	0.2%
72	Nepal	1	0.2%
73	Nigeria	1	0.2%
74	Paraguay	1	0.2%
75	Rwanda	1	0.2%
76	Senegal	1	0.2%
77	South Africa	1	0.2%
78	Ukraine	1	0.2%
79	Zambia	1	0.2%
	Total	619	100.0%

**WAIVERS CURRENTLY IN FORCE**  
(as of December 31, 2021)

WAIVER	DECISION	DATE of ADOPTION of DECISION	GRANTED UNTIL	REPORT in 2021 <sup>44</sup>
Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions <sup>45</sup>	WT/L/1124	24 November 2021	31 December 2022	-
Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions <sup>46</sup>	WT/L/1125	24 November 2021	31 December 2022	-
Introduction of Harmonized System 2012 Changes into WTO Schedules of Tariff Concessions <sup>47</sup>	WT/L/1126	24 November 2021	31 December 2022	-
Introduction of Harmonized System 2017 Changes into WTO Schedules of Tariff Concessions <sup>48</sup>	WT/L/1127	24 November 2021	31 December 2022	-
Cuba – Article XV:6 – Extension of waiver	WT/L/1128	24 November 2021	31 December 2026	-
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	WT/L/1096
Kimberly Process Certification Scheme for Rough Diamonds - Extension of Waiver <sup>49</sup>	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/1118
United States – Trade Preferences granted to Nepal	WT/L/1001	7 December 2016	31 December 2025	WT/L/1119
European Union – Application of Autonomous Preferential Treatment to the Western Balkans	WT/L/1002	7 December 2016	31 December 2021	WT/L/1116

<sup>44</sup> Applicable if so stipulated in the corresponding waiver Decision.

<sup>45</sup> The Member which has requested to be covered under this waiver is: China.

<sup>46</sup> The Members which have requested to be covered under this waiver are: Argentina; Brazil; China; Dominican Republic; European Union; Malaysia; Philippines; and Thailand.

<sup>47</sup> The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; China; Colombia; Costa Rica; Dominican Republic; El Salvador; European Union; Guatemala; India; Kazakhstan; Republic of Korea; Malaysia; Mexico; New Zealand; Philippines; Russian Federation; Singapore; Switzerland; Thailand; and United States.

<sup>48</sup> The Members which have requested to be covered under this waiver are: Argentina; Australia; Brazil; Canada; China; Colombia; Costa Rica; Dominican Republic; Ecuador; El Salvador; European Union; Guatemala; 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.

<sup>49</sup> 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 2021 <sup>44</sup>
Implementation of Preferential Treatment in favour of Services and Service Suppliers of LDCs and Increasing LDC Participation in Services Trade <sup>50</sup>	WT/L/982 WT/MIN(15)/48	19 December 2015	31 December 2030 <sup>51</sup>	-
United States – African Growth and Opportunity Act	WT/L/970	30 November 2015	30 September 2025	WT/L/1117
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/1112
Operationalization of the Waiver concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries <sup>52</sup>	WT/MIN(13)/43 WT/L/918	7 December 2013	-	-
Preferential Treatment to Services and Service Suppliers of Least-developed countries <sup>53</sup>	WT/L/847	17 December 2011	15 years from the date of its adoption <sup>54</sup>	-
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 <sup>55</sup>	WT/L/540 and WT/L/540/Corr.1	30 August 2003	See WT/L/540 and WT/L/540/Corr.1	IP/C/90

<sup>50</sup> 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 subsequently operationalized in the Decision on the Operationalization of the Waiver Concerning Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/MIN(13)/43 - WT/L/918).

<sup>51</sup> At the Nairobi Ministerial Conference (WT/MIN(15)/48 – WT/L/982), Ministers decided to extend the 2011 waiver on Preferential Treatment to Services and Service Suppliers of Least-Developed Countries (WT/L/847).

<sup>52</sup> 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.

<sup>53</sup> Two decisions were subsequently adopted at the Bali and Nairobi Ministerial Conferences in furtherance of this waiver: in 2013 (WT/MIN(13)/43 – WT/L/918) and in 2015 (WT/MIN(15)/48 – WT/L/982).

<sup>54</sup> At the Nairobi Ministerial Conference, Ministers decided to extend the waiver until 31 December 2030 (WT/MIN(15)/48 – WT/L/982).

<sup>55</sup> 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.55**

3 December 2021

**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.<sup>56</sup> The list is based on the previous Indicative List issued on 30 June 2021 (WT/DSB/44/Rev.544). It includes an additional name approved by the DSB at its meeting on 29 November 2021<sup>57</sup>. 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.

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<sup>56</sup> Curricula Vitae containing more detailed information are available to WTO Members upon request from the Secretariat (Council & TNC Division).

<sup>57</sup> See document [WT/DSB/W/689](#).

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>ARGENTINA</b>	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
	FORADORI, Mr. Carlos M.	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
<b>AUSTRALIA</b>	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

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>AUSTRALIA (cont'd)</b>	MULGREW, Mr. Michael	Trade in Goods
	MYLER, Mr. Paul	Trade in Goods and Services
	O'CONNOR, Mr. Paul Richard	Trade in Goods
	RAPER, Ms. Cathy	Trade in Goods and Services
	SIN FAR LEE, Ms. Stephanie	Trade in Goods
	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
<b>BOLIVIA, PLURINATIONAL STATE OF</b>	ZELADA CASTEDO, Mr. Alberto	Trade in Goods
<b>BRAZIL</b>	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 GRYZT, 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

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>BRAZIL (cont'd)</b>	SETTI DIAZ, Mr. José	Trade in Goods
	THORSTENSEN, Ms. Vera Helena	Trade in Goods
<b>CAMEROON</b>	NGANGJOH HODU, Mr. Yenkong	Trade in Goods and Services; TRIPS
<b>CANADA</b>	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
<b>CHILE</b>	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

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>CHILE (cont'd)</b>	PEÑA, Ms. Gloria	Trade in Goods
	SAEZ, Mr. Sebastián	Trade in Goods and Services
	SATELER, Mr. Ricardo	TRIPS
	SOSA, Ms. Luz	Trade in Goods and Services
	TIRONI, Mr. Ernesto	Trade in Goods
<b>CHINA</b>		
	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
<b>COLOMBIA</b>		
	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

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>COLOMBIA (cont'd)</b>	ROJAS ARROYO, Mr. Santiago	Trade in Goods; TRIPS
	TANGARIFE, Mr. Marcel	Trade in Goods; TRIPS
<b>CÔTE D'IVOIRE</b>	GOSSET, Ms. Marie	Trade in Goods; TRIPS
<b>CUBA</b>	COBO ROURA, Mr. Narciso A.	Trade in Goods
	LABORA RODRÍGUEZ, Ms. Celia M.	Trade in Goods and Services
	VÁZQUEZ De ALVARÉ, Ms. Dánice	TRIPS
<b>DJIBOUTI</b>	PIQUEMAL, Mr. Alain	Trade in Goods and Services; TRIPS
<b>DOMINICAN REPUBLIC</b>	DE LOS SANTOS DE PIANTINI, Ms. Roxana	Trade in Goods; TRIPS
	NAUT, Ms. Katrina	Trade in Goods and Services; TRIPS
<b>ECUADOR</b>	BETANCOURT, Mr. Roberto	Trade in Goods and Services
	CAICEDO, Mr. Diego	Trade in Goods and Services
	CASTRILLÓN, Mr. Juan Carlos	Trade in Goods and Services
	ESPINOSA CAÑIZARES, Mr. Cristian	Trade in Goods and Services; TRIPS
	MONTAÑO HUERTA, Mr. César	Trade in Goods and Services; TRIPS
	MUÑOZ, Ms. Mireya	Trade in Goods and Services
	VAYAS, Mr. Luis	TRIPS
<b>EGYPT</b>	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
	ZHRAN, Mr. Mohamed Mounir	Trade in Goods and Services; TRIPS

MEMBER	NAME	SECTORAL EXPERIENCE
<b>EUROPEAN UNION</b>		
<b>AUSTRIA</b>	BENEDEK, Mr. Wolfgang	Trade in Goods
	REITERER, Mr. Michael G. K.	Trade in Goods and Services; TRIPS
	ZEHETNER, Mr. Franz	Trade in Goods
<b>BELGIUM</b>		
	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
<b>CZECH REPUBLIC</b>		
	PALEČKA, Mr. Peter	Trade in Goods and Services
<b>DENMARK</b>		
	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
<b>EUROPEAN UNION</b>		
	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
<b>FINLAND</b>		
	HIMANEN, Mr. Vesa	Trade in Goods
	LUOTONEN, Mr. Yrjö Kim David	Trade in Goods
	PYYSAALO, Mr. Tapio	Trade in Goods
<b>FRANCE</b>		
	ARMAIGNAC, Ms. Marie-Christine	Trade in Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>FRANCE (cont'd)</b>	BOISSON DE CHAZOURNES, Mrs. Laurence	Trade in Goods and Services
	JENNY, Mr. Frédéric Yves	Trade in Goods and Services; TRIPS
	METZGER, Mr. Jean-Marie	Trade in Goods
	MONNIER, Mr. Pierre	Trade in Goods and Services; TRIPS
	RIEGERT, Mr. François	Trade in Goods
	RUIZ-FABRI, Ms. Hélène	Trade in Goods and Services
	STERN, Ms. Brigitte	Trade in Goods
<b>GERMANY</b>	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
<b>GREECE</b>	STANGOS, Mr. Petros N.	Trade in Goods and Services; TRIPS
<b>HUNGARY</b>	HALGAND DANI, Ms. Virág	Trade in Goods and Services; TRIPS
	LAKATOS, Mr. Andrés	Trade in Goods and Services
<b>IRELAND</b>	MATTHEWS, Mr. Alan Henry	Trade in Goods
<b>ITALY</b>	GIARDINA, Mr. Andrea	Trade in Goods and Services
	MALAGUTI, Ms. Maria Chiara	Trade in Goods and Services; TRIPS
	MENSI, Mr. Maurizio	Trade in Goods
<b>LITHUANIA</b>	ALISAUSKAS, Mr. Raimondas	Trade in Goods and Services
<b>MALTA</b>	BONELLO, Mr. Michael C.	Trade in Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>NETHERLANDS</b>	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
<b>POLAND</b>	PIETRAS, Mr. Jaroslaw	Trade in Services
<b>PORTUGAL</b>	CALHEIROS DA GAMA, Mr. José Sérgio	TRIPS
<b>ROMANIA</b>	BERINDE, Mr. Mihai	Trade in Goods
	CAMPEANU, Ms. Victoria	Trade in Goods
	FRATITA, Ms. Carmen Florina	Trade in Goods
<b>SPAIN</b>	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
<b>SWEDEN</b>	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
<b>GHANA</b>	NIMAKO-BOATENG, Ms. Gertrude	Trade in Goods and Services
	OPOKU AWUKU, Mr. Emmanuel	Trade in Goods and Services; TRIPS
<b>HONG KONG, CHINA</b>	CARTLAND, Mr. Michael David	Trade in Goods and Services
	CHEUNG, Mr. Peter Kam Fai	TRIPS
	LEUNG, Ms. Ada Ka Lai	TRIPS
	LITTLE, Mr. David	Trade in Goods and Services
	MILLER, Mr. Tony J.A.	Trade in Goods and Services

MEMBER	NAME	SECTORAL EXPERIENCE
<b>ICELAND</b>	BJÖRGVINSSON, Mr. David Thór	Trade in Goods and Services
	JÓHANSSON, Mr. Einar M.	Trade in Goods
	SANDHOLT, Mr. Brynjolfur	Trade in Goods
<b>INDIA</b>	AGARWAL, Mr. Vinod Kumar	Trade in Goods; TRIPS
	AGRAWAL, Mr. Rameshwar Pal	Trade in Goods and Services; TRIPS
	BHANSALI, Mr. Sharad	Trade in Goods
	BHATNAGAR, Mr. Mukesh	Trade in Goods
	BHATTACHARYA, Mr. G. C.	Trade in Goods
	CHANDRASEKHAR, Mr. Kesava Menon	Trade in Goods and Services; TRIPS
	CHAUDHURI, Mr. Sumanta	Trade in Goods and Services; TRIPS
	DAS, Mr. Abhijit	Trade in Goods
	DAS, Mr. Bhagirath Lal	Trade in Goods
	DASGUPTA, Mr. Jayant	Trade in Goods
	GOPALAN, Mr. Rajarangamani	Trade in Goods
	GOYAL, Mr. Arun	Trade in Services
	KAUSHIK, Mr. Atul	Trade in Goods; TRIPS
	KHER, Mr. Rajeev	Trade in Goods and Services; TRIPS
	KHULLAR, Mr. Rahul	Trade in Goods and Services; TRIPS
	KUMAR, Mr. Mohan	Trade in Goods and Services
	MOHANTY, Mr. Prasant Kumar	Trade in Goods
	MUKERJI, Mr. Asoke Kumar	Trade in Goods and Services; TRIPS
	NARAYANAN, Mr. Srinivasan	Trade in Goods; TRIPS
	PARTHASARATHY, Mr. R.	Trade in Goods; TRIPS
	PRABHU, Mr. Pandurang Palimar	Trade in Goods; TRIPS
	PRASAD, Ms. Anjali	Trade in Goods and Services; TRIPS
	RAMAKRISHNAN, Mr. N.	Trade in Goods
	RAO, Mr. Pemmaraju Sreenivasa	Trade in Goods
	REGE, Mr. Narayan Vinod	Trade in Goods
	SABHARWAL, Mr. Narendra	TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>INDIA (cont'd)</b>	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
<b>INDONESIA</b>	KOESNAIDI, Mr. Joseph Wira	Trade in Goods
	LIMENTA, Ms. Michelle Engel	Trade in Goods; TRIPS
	WINANTI, Ms. Poppy Sulistyanning	Trade in Services; TRIPS
<b>ISRAEL</b>	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
<b>JAMAICA</b>	ROBINSON, Mr. Patrick L.	Trade in Goods and Services; TRIPS
<b>JAPAN</b>	ARAKI, Mr. Ichiro	Trade in Goods and Services; TRIPS
	ASAKAI, Mr. Kazuo	Trade in Goods
	ASAKURA, Mr. Hironori	Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>JAPAN (cont'd)</b>	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
	OSHIMA, Mr. Shotaro	Trade in Goods and Services; 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
<b>KENYA</b>	GATHII, Mr. James T.	Trade in Goods and Services; TRIPS
	WARUHIU, Mr. Andrew	Trade in Goods; TRIPS
<b>KOREA</b>	AHN, Mr. Dukgeun	Trade in Goods
	AHN, Mr. Ho-Young	Trade in Goods
	BARK, Mr. Taeho	Trade in Goods
	CHO, Mr. Tae-Yul	Trade in Goods
	CHOI, Mr. Byung-il	Trade in Services
	CHOI, Mr. Seung-Hwan	Trade in Goods
	CHOI, Mr. Won-Mog	Trade in Goods and Services; TRIPS
	CHUNG, Mr. Chan-Mo	Trade in Goods
	KIM, Mr. Jong Bum	Trade in Goods
	KANG, Mr. Junha	Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>KOREA (cont'd)</b>	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
<b>KYRGYZ REPUBLIC</b>	DJUMALIEV, Mr. Muktar	Trade in Goods and Services
<b>LIECHTENSTEIN</b>	ZIEGLER, Mr. Andreas R.	Trade in Services; TRIPS
<b>MADAGASCAR</b>	ANDRIANARIVONY, Mr. Minoarison	Trade in Goods and Services; TRIPS
<b>MALAYSIA</b>	HARUN, Mrs. Hiswani	Trade in Goods
	KASIMIR, Mr. Merlyn	Trade in Goods and Services
	YACOB, Mr. Muhammad Noor	Trade in Goods
<b>MAURITIUS</b>	BEEKARRY, Mr. Navin	Trade in Goods and Services
	BHUGLAH, Mr. Achad	Trade in Goods and Services
<b>MEXICO</b>	DE LA PEÑA, Mr. Alejandro	Trade in Goods and Services; TRIPS
	DE MATEO VENTURINI, Mr. Fernando	Trade in Goods and Services; TRIPS
	DE ROSENZWEIG, Mr. Francisco	Trade in Goods and Services; TRIPS
	FERRARI, Mr. Bruno	Trade in Goods and Services; TRIPS
	JASSO TORRES, Mr. Humberto	Trade in Goods
	LEYCEGUI, Ms. Beatriz	Trade in Goods and Services; TRIPS
	MALPICA SOTO, Mr. Guillermo	Trade in Services
	PEREZCANO DÍAZ, Mr. Hugo Manuel	Trade in Goods and Services; TRIPS
	PÉREZ GÁRATE, Mr. Orlando	Trade in Goods and Services; TRIPS
	POBLANO, Mr. José F.	Trade in Services; TRIPS
	REYES, Ms. Luz Elena	Trade in Goods
	TRASLOSHEROS HERNÁNDEZ, Mr. José Gerardo	Trade in Goods and Services; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>MEXICO (cont'd)</b>	VÉJAR, Mr. Carlos	Trade in Goods and Services; TRIPS
	ZABLUDOVSKY KUPER, Mr. Jaime	Trade in Goods and Services; TRIPS
<b>MOLDOVA, REP. OF</b>	FOLTEA, Ms. Marina	Trade in Goods; TRIPS
<b>MONTENEGRO</b>	SCEPANOVIC, Mr. Goran	Trade in Goods
	VUJANOVIC, Ms. Snezana	Trade in Goods
<b>NEPAL</b>	PANDEY, Mr. Posh Raj	Trade in Goods and Services
	SUBEDI, Mr. Surya P.	Trade in Goods and Services; TRIPS
<b>NEW ZEALAND</b>	CARSON, Mr. Christopher Barr	Trade in Goods
	EVANS, Mr. David	Trade in Goods
	GALLACHER, Mr. Scott	Trade in Goods and Services; TRIPS
	GARCIA, Mr. Martin	Trade in Goods
	GROSER, Mr. Tim	Trade in Goods
	HALLUM, Ms. Victoria	Trade in Services
	HARVEY, Mr. Martin Wilfred	Trade in Goods
	HIGGIE, Ms. Dell Clark	Trade in Goods
	HONEY, Ms. Stephanie	Trade in Goods
	KELLY, Ms. Clare	Trade in Goods and Services
	MACEY, Mr. Adrian	Trade in Goods; TRIPS
	McPHAIL, Mr. Alexander Hugh	Trade in Goods
	NOTTAGE, Mr. Hunter	Trade in Goods and Services; TRIPS
	PATERSON, Ms. Sarah	Trade in Goods
	SANDFORD, Mr. Iain	Trade in Goods and Services; TRIPS
	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
	VITALIS, Mr. Vangelis	Trade in Goods and Services

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>NIGER</b>	TANKOANO, Mr. Amadou	Trade in Goods and Services; TRIPS
<b>NIGERIA</b>	AGAH, Mr. Yonov Frederick	Trade in Goods and Services; TRIPS
	NNONA, Mr. George C.	Trade in Goods and Services; TRIPS
<b>NORWAY</b>	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
<b>PAKISTAN</b>	ARIF, Mr. Muhammad Ikram	Trade in Goods
	BASHIR, Mr. Shahid	Trade in Goods
	HAMID ALI, Mr. Muhammad	Trade in Goods; TRIPS
	HAYAT, Mr. Khizar	Trade in Goods
	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
	NAYYAR, Mr. Syed I. M.	Trade in Goods and Services; TRIPS
<b>PANAMA</b>	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

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>PANAMA (cont'd)</b>	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
<b>PERU</b>	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
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	TEEHANKEE, Mr. Manuel A. J.	Trade in Goods and Services; TRIPS
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	AL-SULAITI, Mr. Ahmed	Trade in Goods; TRIPS
	FETAIS, Mr. Abdulmehsen	Trade in Goods and Services
	MAKKI, Mr. Fadi	Trade in Goods and Services
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	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
<b>SRI LANKA</b>	JAYASEKERA, Mr. Douglas	Trade in Goods; TRIPS

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
<b>SWITZERLAND</b>	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
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	KAUFMANN, Ms. Christine	Trade in Services
	LEGLER, Mr. Thomas	TRIPS
	MÄCHLER, Ms. Monica	Trade in Goods and Services; TRIPS
	MEYER, Mr. Matthias	Trade in Goods and Services; TRIPS
	PANNATIER, Mr. Serge Nicolas	Trade in Goods
	SCHMID, Mr. Michael	Trade in Goods and Services
	TSCHÄENI, Mr. Hanspeter	Trade in Goods
	WEBER, Mr. Rolf H.	Trade in Services
ZULAUF, Mr. Daniel	Trade in Goods and Services; TRIPS	
<b>THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU</b>	CHANG, Ms. Yie-Yun	TRIPS
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	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
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GÜRAKAN, Ms. Tulu		Trade in Goods
KABAALIOĞLU, Mr. A. Haluk		Trade in Goods and Services
KAÇAR, Mr. Bayram		Trade in Goods
MOLLASALIHIOĞLU, Mr. Yavuz		Trade in Goods

<b>MEMBER</b>	<b>NAME</b>	<b>SECTORAL EXPERIENCE</b>
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	YAPICI, Mr. Murat	Trade in Goods
	YENAL, Mr. Aytaç	Trade in Goods
<b>UNITED KINGDOM</b>	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
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	CONNELLY, Mr. Warren	Trade in Goods
	GANTZ, Mr. David A.	Trade in Goods
	GORDON, Mr. Michael Wallace	Trade in Goods
	HODGSON, Ms. Mélida	Trade in Goods and Services
	KASSINGER, Mr. Theodore W.	Trade in Goods and Services
	KHO, Mr. Stephen	Trade in Goods and Services; TRIPS
	LAYTON, Mr. Duane	Trade in Goods
	LICHTENSTEIN, Ms. Cynthia Crawford	Trade in Services
	McGINNIS, Mr. John Oldham	Trade in Goods; TRIPS
	PARTAN, Mr. Daniel G.	Trade in Goods
	POWELL, Mr. Stephen J.	Trade in Goods
	SANDSTROM, Mr. Mark R.	Trade in Goods and Services
	THOMPSON, Mr. George W.	Trade in Goods
	TROSSEVIN, Ms. Marguerite	Trade in Goods
	VERRILL, Jr. Mr. Charles Owen	Trade in Goods

MEMBER	NAME	SECTORAL EXPERIENCE
<b>URUGUAY</b>	AMORÍN, Mr. Carlos	Trade in Goods; TRIPS
	CAYRÚS, Mr. Hugo	Trade in Goods and Services
	EHLERS, Mr. William	Trade in Goods
	ROSSELLI, Mr. Elbio	Trade in Goods
	VANERIO, Mr. Gustavo	Trade in Goods and Services
<b>VENEZUELA, BOLIVARIAN REPUBLIC OF</b>	ESCOBAR, Mr. José Benjamín	Trade in Services
	MARQUEZ, Mr. Guillermo	Trade in Services
	ROJAS PENSO, Mr. Juan Francisco	Trade in Goods and Services

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**ANNEX**  
Administration of the Indicative List

1. To assist in the selection of panelists, the DSU provides in Article 8.4 that the Secretariat shall maintain an indicative list of qualified governmental and non-governmental individuals. Accordingly, the Chairman of the DSB proposed at the 10 February meeting that WTO Members review the roster of non-governmental panelists established on 30 November 1984 (BISD 31S/9) (hereinafter referred to as the "1984 GATT Roster") and submit nominations for the indicative list by mid-June 1995. On 14 March, The United States delegation submitted an informal paper discussing, amongst other issues, what information should accompany the nomination of individuals, and how names might be removed from the list. The DSB further discussed the matter in informal consultations on 15 and 24 March, and at the DSB meeting on 29 March. This note puts forward some proposals for the administration of the indicative list, based on the previous discussions in the DSB.

*General DSU requirements*

2. The DSU requires that the indicative list initially include "the roster of governmental and non-governmental panelists established on 30 November 1984 (BISD 31S/9) and other rosters and indicative lists established under any of the covered agreements, and shall retain names of persons on those rosters and indicative lists at the time of entry into force of the WTO Agreement" (DSU 8.4). Additions to the indicative list are to be made by Members who may "periodically suggest names of governmental and non-governmental individuals for inclusion on the indicative list, providing relevant information on their knowledge of international trade and of the sectors or subject matter of the covered agreements". The names "shall be added to the list upon approval by the DSB" (DSU 8.4).

*Submission of information*

3. As a minimum, the information to be submitted regarding each nomination should clearly reflect the requirements of the DSU. These provide that the list "shall indicate specific areas of experience or expertise of the individuals in the sectors or subject matter of the covered agreements" (DSU 8.4). The DSU also requires that panelists be "well-qualified governmental and/or non-governmental individuals, including persons who have served on or presented a case to a panel, served as a representative of a Member or of a contracting party to GATT 1947 or as a representative to the Council or Committee of any covered agreement or its predecessor agreement, or in the Secretariat, taught or published on international trade law or policy, or served as a senior trade policy official of a Member" (DSU 8.1).

4. The basic information required for the indicative list could best be collected by use of a standardized form. Such a form, which could be called a Summary Curriculum Vitae, would be filled out by all nominees to ensure that relevant information is obtained. This would also permit information on the indicative list to be stored in an electronic database, making the list easily updateable and readily available to Members and the Secretariat. As well as supplying a completed Summary Curriculum Vitae form, persons proposed for inclusion on the indicative list could also, if they wished, supply a full Curriculum Vitae. This would not, however, be entered into the electronic part of the database.

*Updating of indicative list*

5. The DSU does not specifically provide for the regular updating of the indicative list. In order to maintain the credibility of the list, it should however be completely updated every two years. Within the first month of each two-year period, Members would forward updated Curricula Vitae of persons appearing on the indicative list. At any time, Members would be free to modify the indicative list by proposing new names

for inclusion, or specifically requesting removal of names of persons proposed by the Member who were no longer in a position to serve, or by updating the summary Curriculum Vitae.

6. Names on the 1984 GATT Roster that are not specifically resubmitted, together with up-to-date summary Curriculum Vitae, by a Member before 31 July 1995 would not appear after that date on the indicative list.

*Other rosters*

7. The Decision on Certain Dispute Settlement Procedures for the GATS (S/L/2 of 4 April 1995), adopted by the Council for Trade in Services on 1 March 1995, provides for a special roster of panelists with sectoral expertise. It states that "panels for disputes regarding sectoral matters shall have the necessary expertise relevant to the specific services sectors which the dispute concerns". It directs the Secretariat to maintain the roster and "develop procedures for its administration in consultation with the Chairman of the Council". A working document (S/C/W/1 of 15 February 1995) noted by the Council for Trade in Services states that "the roster to be established under the GATS pursuant to this Decision would form part of the indicative list referred to in the DSU". The specialized roster of panelists under the GATS should therefore be integrated into the indicative list, taking care that the latter provides for a mention of any service sectoral expertise of persons on the list.

8. A suggested format for the Summary Curriculum Vitae form for the purposes of maintaining the Indicative List is attached.

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**SUMMARY CURRICULUM VITAE  
FOR PERSONS PROPOSED FOR THE INDICATIVE LIST<sup>1</sup>**

1. **Name:** full name
2. **Sectoral Experience**  
List here any particular sectors of expertise:  
(e.g. technical barriers, dumping, financial services, intellectual property, etc.)
3. **Nationality(ies)** all citizenships
4. **Nominating Member:** the nominating Member
5. **Date of birth:** full date of birth
6. **Current occupations:** year beginning, employer, title, responsibilities
7. **Post-secondary education** year, degree, name of institution
8. **Professional qualifications** year, title
9. **Trade-related experience in Geneva in the WTO/GATT system**
  - a. Served as a panelist year, dispute name, role as chairperson/member
  - b. Presented a case to a panel year, dispute name, representing which party
  - c. Served as a representative of a contracting party or member to a WTO or GATT body, or as an officer thereof year, body, role
  - d. Worked for the WTO or GATT Secretariat year, title, activity
10. **Other trade-related experience**
  - a. Government trade work year, employer, activity

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<sup>1</sup> 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)

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## **MEMBERSHIP OF THE WTO APPELLATE BODY**

**As of December 31, 2021**

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. Hong Zhao 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).

On December 10, 2019, the final four year terms of Mr. Bhatia and Mr. Graham expired. As indicated in the U.S. statement delivered at the DSB meeting held on February 28, 2020 and reconvened on March 5, 2020, because Ms. Zhao was affiliated with the Government of the People's Republic of China during her service, Ms. Zhao was not a valid member of the WTO Appellate Body prior to November 30, 2020, the date her four year term was originally scheduled to expire. Accordingly, there were no Appellate Body members from January 1, 2020 to December 31, 2021.

## 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
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### 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
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- 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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