# Report by the Office of the United States Trade Representative On Progress in Reducing Trade-Related Barriers to the Export of Greenhouse Gas Intensity Reducing Technologies – Section 734(b) of the Energy Policy Act of 2005

**October 2, 2007**

The Energy Policy Act of 2005 (the Act) calls on the Administration to integrate into U.S. foreign policy the goal of reducing greenhouse gas (GHG) emissions in developing countries. In October 2006, pursuant to section 1611 of the Act,[1] the Office of the United States Trade Representative (USTR) prepared a report that identified trade barriers that face U.S. exporters of greenhouse gas intensity reducing technologies (GHGIRTs) in the top 25 GHG emitting developing countries.[2] That report also described the steps the United States is taking to reduce these and other barriers to trade in GHGIRT products and services and create new market opportunities for U.S. technology workers and companies. The 2006 report is available at www.ustr.gov. Consistent with the Act, this report describes the progress made with respect to removing the barriers identified in the initial report.[3]

## Background

Researchers have found that "[c]ountries which trade more environmental goods have less pollution or consume energy more efficiently."[4] As explained in the 2006 report, high tariffs and other trade and investment barriers in developing countries impede access to these important technologies. By reducing the prices of these technologies through substantial reduction or elimination of import tariffs and specific non-tariff barriers, developing countries can take concrete and effective action to improve access to products vital for combating pollution, reducing GHG emissions and meeting sustainable development goals.

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[1] Section 1611 of the Act amends the Global Environmental Protection Assistance Act of 1989 (Public Law 101-240) to add new Sections 731-39. Section 732(a)(2)(A) directs the Department of State to identify the top 25 GHG emitting developing countries for the purpose of promoting climate change technology. The Secretary of State has submitted its report to Congress identifying these 25 countries. Section 734 calls on the United States Trade Representative "(as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements) [to] (1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas intensity reducing technologies and practices from the United States to the developing countries identified in the report submitted under section 732(a)(2)(A); and (2) negotiate with foreign countries for the removal of those barriers."

[2] These 25 countries were identified in the Department of State's 2006 **"**Report to Congress on Developing Country Emissions of Greenhouse Gases and Climate Change Technology Deployment." They are: China; India; South Africa; Mexico; Brazil; Indonesia; Thailand; Kazakhstan; Malaysia; Egypt; Argentina; Venezuela; Uzbekistan; Pakistan; Nigeria; Algeria; Philippines; Iraq; Vietnam; Colombia; Chile; Libya; Turkmenistan; Bangladesh; and Azerbaijan.

[3] In the future, USTR will provide the annual report called for in section 734(b) as part of the National Trade Estimate (NTE) Report on Foreign Trade Barriers, which USTR prepares annually pursuant to the Omnibus Trade and Competitiveness Act of 1988. The first NTE Report that contains the report required by section 734(b) of the Act will be issued in March 2008.

[4] Bijit Bora and Robert Teh, WTO Secretariat, "Tariffs and Trade in Environmental Goods," WTO workshop on environmental goods, Geneva, Switzerland, October 11, 2004. Available on the WTO website at http://www.wto.org/english/tratop_e/envir_e/wksp_goods_oct04_e/wksp_goods_oct04_e.htm#programme.

While many developed countries impose low or no tariffs on many of these environmental technologies, a majority of developing countries covered by this report apply significant import duties, as high as 35 percent *ad valorem* on some products. In addition to tariffs, the 2006 report identified other barriers that can slow the adoption and importation of GHGIRTs, including: lack of adequate and effective intellectual property rights (IPR) protection; lack of regulatory transparency and sound legal infrastructure; state-controlled oil and energy sectors, which are often slower to invest in new technologies; cumbersome and unpredictable customs procedures; corruption; import licensing schemes; and investment restrictions, including requirements to partner with domestic firms.

The United States has pursued a wide variety of bilateral, regional and multilateral efforts to address these trade and investment obstacles that U.S. GHGIRT exporters face in developing countries. The United States is a leading advocate for reducing barriers to GHGIRTs as part of the Administration's broader effort to open markets around the globe through the ongoing Doha Round of multilateral trade negotiations in the World Trade Organization (WTO). Other trade initiatives include: working to build support for trade liberalization in the environmental goods sector in regional organizations, such as the Asia Pacific Economic Cooperation (APEC) forum; working to secure concrete market-opening commitments from countries seeking to join the WTO; entering into trade and investment framework agreements with our economic partners to seek improvements in their trade and investment climates; negotiating bilateral investment treaties that establish a more secure and predictable legal framework for U.S. investors abroad; entering into comprehensive, state-of-the-art bilateral and regional free trade agreements (FTAs) with select countries; and vigorously enforcing U.S. rights under existing trade agreements.

The Administration's bilateral, regional and multilateral market-opening efforts reinforce the commitment made by G-8 Leaders at the Sea Island Summit in 2006 to promote innovation, energy efficiency and conservation; improve policy, regulatory and financing frameworks; and accelerate deployment of cleaner technologies, particularly GHGIRTs. At the Heilegendamm Summit in 2007, the G-8 Leaders reaffirmed these commitments as well as their work in the WTO to reduce and eliminate tariff and non-tariff barriers to trade in environmental goods and services.

The President's climate change initiative, announced in May 2007, further underscores the importance of such work by making the reduction of trade barriers to clean energy technologies and services a key component of this new strategy to address climate change worldwide. Secretary Rice hosted the first meeting of Major Economies on September 27-28 in Washington to chart a post-2012 strategy to reduce greenhouse gas emissions globally.[5] The climate change initiative will build on and advance other U.S. Government activities to promote climate-related technologies, such as the Asia-Pacific Partnership on Clean Development and Climate (APP).

[5] Participants included: Australia, Brazil, Canada, China, the European Union, India, Indonesia, Japan, Mexico, Russia, South Africa, South Korea and the United States.

The APP can also be a vehicle for promoting increased spread of environmental technologies and related services.[6]

## Progress in 2007

The United States has made tangible progress since the initial report in pursuing a wide variety of trade and investment initiatives to encourage developing countries to embrace the market-based economic reforms, transparent regulatory practices, intellectual property and investor protections and open trade regimes necessary to encourage widespread dissemination and use of GHGIRTs. Following is a summary of the most notable developments in these areas in 2007.

**WTO.** In 2007, the United States worked to advance the Doha Round of multilateral trade negotiations in the WTO and pressed other WTO Members to join in working together to bring the Round to a successful conclusion – one that will open markets and create new economic opportunities, including in relation to GHGIRTs. In particular, the United States continues to work with a like-minded group of countries (including the European Communities, New Zealand, Singapore, Japan, Korea, Norway, Canada and Switzerland) to advance an ambitious proposal that would eliminate tariffs on environmental goods, including GHGIRTs, and address non-tariff barriers to these important technologies.[7]

**APEC.** In addition to efforts in the WTO, the United States in 2007 launched an initiative on environmental goods in the APEC Market Access Group (MAG). The work is focused on building a better understanding throughout the APEC region of cutting edge environmental technologies and building momentum for trade liberalization in this important sector. In 2005, APEC exports of environmental goods to the world totaled $221 billion, and over 75 percent of those exports -- totaling $168 billion -- went to other APEC economies. Thus, APEC offers an excellent forum to promote trade in environmental goods. At the APEC Senior Officials Meeting in Cairns, Australia in June 2007, the United States hosted a workshop on environmental goods, where U.S. environmental technology companies, as well as other companies in the APEC region, were invited to share information on their technologies and the trade-related barriers that they face in the region. The speakers underscored the fast pace of technological development in this sector and urgently called on governments to reinvigorate their efforts to remove tariff and non-tariff barriers to these important environmental technologies, and to adopt trade facilitative measures.

As a result of the workshop, APEC officials agreed to explore future MAG work on environmental goods, including: developing an illustrative list of environmental goods that could be updated regularly and used for unilateral, bilateral/regional or multilateral liberalization efforts; examining the relationship between environmental goods and services; and studying best practices with regard to public policy, including regulations and standards for promoting and providing incentives for cutting-edge technology. The United States will organize a second workshop in Peru in 2008.

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[6] The State Department's 2006 report includes a broader review of U.S. climate change initiatives, including the APP. The APP includes two of the countries (China and India) identified in the State Department's report as major developing country greenhouse gas emitters, in addition to Japan, Australia, South Korea and the United States.

[7] See WTO Proposal TN/TE/W/65 (May 9, 2006), available at www.ustr.gov.

APEC Leaders recognized the importance of open markets for environmental goods and services in the Sydney Declaration on Climate Change, Energy Security and Clean Development, which calls for "market opening in the WTO" to advance climate and energy security goals. APEC Leaders also agreed to "review and discuss at the 2008 APEC Leaders' meeting the progress achieved in the WTO Doha Development Agenda negotiations on the liberalization of trade in environmental services."

**Free Trade Agreements.** During 2007, the United States recently concluded a free trade agreement with Colombia (one of the developing countries covered by this report), along with free trade agreements with Peru, Panama and Korea. The U.S. - Colombia Trade Promotion Agreement (TPA) will further improve trade prospects with Colombia for U.S. GHGIRT producers. In particular, the TPA commits Colombia to improve its protections for IPR, effectively enforce its environmental laws, improve transparency, eliminate tariffs on GHGIRTs and open Colombia's market to U.S. environmental services firms. The two governments will jointly oversee implementation of the agreement and address any issues that may arise. Congressional approval for the TPA is pending.

U.S. free trade agreements with two other developing countries addressed in this report (Chile and Mexico) are currently in force, and each agreement eliminates all duties on bilateral trade in GHGIRTs. Over the first 11 years that the NAFTA was in force, U.S. exports of GHIRTs to Mexico more than doubled, from $987 million in 1994 to more than $2 billion in 2005. U.S. exports of GHGIRTs to Chile increased from $461 million in 2004 to $506 million in 2005, the first two years that the free trade agreement with that country was in effect.

Because of their significant benefits, the Administration is continuing to explore bilateral and regional initiatives for trade liberalization, including the negotiation of free trade agreements. The recently signed agreements with Peru, Colombia, Panama and Korea, along with negotiations launched with the South African Customs Union, Thailand, Malaysia and the United Arab Emirates, should result in new market opportunities in countries with which current U.S. two-way trade was more than $212 billion per year in 2006. These benefits should extend directly to trade in GHGIRTs.

**Vietnam's Accession to the WTO.** In January 2007, Vietnam joined the WTO. As part of its accession process, Vietnam undertook broad new market access commitments in both goods and services. These commitments improved on the existing access provided to U.S. firms under the 2001 U.S.-Vietnam Bilateral Trade Agreement. On full implementation of Vietnam's WTO commitments, about 94 percent of its imports from the United States, including many categories of environmental goods, will face duties of 15 percent *ad valorem* or less. Vietnam's commitments also include an obligation to set maximum tariff levels for 100 percent of its tariff lines, and as part of its accession agreement it cannot raise tariffs above these levels without compensating WTO Members for this increase. Vietnam also made substantial commitments to open up key service sectors to foreign participation, including its environmental services market. As a result, after a five-year phase-in period Vietnam will allow U.S. service providers to provide a range of services, from sewage services to noise-abatement services, through joint ventures with Vietnamese partners, or as 100-percent foreign-owned enterprises. In addition, for the first time U.S. firms will be able to compete for contracts to supply environmental and other goods and services to Vietnam's state-owned and controlled enterprises, which will be obligated to make purchases and sales of goods and services based on commercial considerations. Moreover, both Vietnam's WTO accession agreement and the U.S.-Vietnam Bilateral Trade Agreement impose important transparency and legal reform requirements designed to address longstanding corruption and transparency issues in that country.

**China:** As part of their bilateral Strategic Economic Dialogue, launched in December 2006, the United States and China have agreed to work together in the WTO to open markets for environmental goods and services, and to use the APEC forum to spur progress in the Doha Round negotiations. The U.S.-China Joint Commission on Commerce and Trade (JCCT) also provides a forum for addressing Chinese barriers to GHGIRTs, such as inadequate IPR protection, can be addressed. The two countries made some progress in this area at the 2006 JCCT meeting, but significant barriers remain to be addressed.