

IV. Other Multilateral Activities

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents corrupt practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to international trade, environment, labor and other trade-related interests are balanced and mutually supportive.

A. Trade and the Environment

As President Bush stated when he signed the Trade Act of 2002, “History shows that as nations become more prosperous, their citizens will demand, and can afford, a cleaner environment.” Understanding that advancing trade and environmental objectives are mutually supportive, the U.S. Government has been very active in promoting a trade policy agenda that pursues economic growth in a manner that integrates economic, social, and environmental policies. To help maximize the complementary effect of our trade and environmental policies, the Bush Administration announced in April 2001 that it would continue the policy of conducting environmental reviews of trade agreements under Executive Order 13141 (1999) and implementing guidelines. The Order and implementing guidelines require careful assessment and consideration of the environmental impacts of trade agreements, including detailed written reviews of environmentally significant trade agreements. The reviews are the product of rigorous interagency consultations. During 2003, as part of its ongoing review policy, USTR and the White House Council on Environmental Quality (CEQ) continued their work on the environmental reviews of FTAs under negotiation with

Morocco, five Central American countries, Australia, and the members of the Southern African Customs Union. Interim reviews of the Morocco and Central American agreements have now been issued. USTR and CEQ also completed environmental reviews of the final texts of the FTAs with Chile and Singapore. The review process for each of these agreements made important contributions to the negotiations and to the content of the final agreements. USTR and CEQ also continued their work on an environmental review of the WTO Doha Development Agenda negotiations and an environmental review of the Free Trade Area of the Americas (FTAA).

The U.S. Government continues to take an active role in the WTO Committee on Trade and Environment (CTE) to put into effect the WTO’s commitment to the simultaneous promotion of trade, expanded environmental improvement, and economic growth and development.

The U.S. Congress specified certain objectives with respect to trade and environment in the Trade Act of 2002, and USTR took these into account in coordinating interagency development of negotiating positions. In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States was active on all aspects of the Doha trade and environment agenda. The United States introduced papers in the CTE in Special Session outlining its approach to increase communication and coordination between WTO bodies and secretariats of

multilateral environmental agreements (MEAs) and on the relationship between specific trade obligations in MEAs and existing WTO rules. The United States coordinated effectively with other interested WTO Members in seeking new disciplines on fisheries subsidies through negotiations in the Rules Negotiating Group. The United States also identified increased market access for environmental goods and services as an effective means to enhance access to environmental technologies around the world and proposed innovative ideas for developing modalities in negotiations on environmental goods. With respect to the Doha trade and environment agenda that does not specifically involve negotiations, the United States played an active role, particularly in emphasizing the importance of capacity-building, including with respect to environmental reviews of trade negotiations, and the role of the CTE in regular session in discussing the environmental implications of all areas under negotiation in the Doha Development Agenda.

USTR co-chairs U.S. participation in the OECD Joint Working Party on Trade and Environment (JWPTE), which met twice in 2003. Work has focused on trade, environment and development issues with an emphasis on the role of environmental goods and services liberalization and eco-labeling schemes in promoting “win-win-win” scenarios. These activities are discussed further in the OECD section of this report (Chapter V, Section C).

USTR participates in U.S. policymaking regarding the implementation of various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the United Nations Framework Convention on Climate

Change, international fisheries management schemes, the Cartagena Protocol on Biosafety and the Stockholm Convention on Persistent Organic Pollutants. USTR also continues to be involved in the trade-related aspects of international forest policy deliberations, including in the newly-formed permanent United Nations’ Forum on Forests—the successor to the Commission on Sustainable Development’s *ad hoc* Intergovernmental Forum on Forests and in the International Tropical Timber Organization. USTR participated in international negotiations to develop a Framework Convention on Tobacco Control, under the auspices of the World Health Organization, and continues to advise on trade-related tobacco issues. In addition, USTR has participated extensively in U.S. policymaking regarding the International Commission for the Conservation of Atlantic Tuna’s revision of its compliance regime

2. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with the agencies that lead U.S. participation in the institutions created by the NAFTA environmental side agreements, the North American Agreement on Environmental Cooperation (NAAEC) and the border environmental infrastructure agreement. These institutions were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement. The Border Environment Cooperation Commission and the North American Development Bank develop and finance needed environmental infrastructure projects along the U.S.-Mexico border.

The Commission for Environmental Cooperation (CEC), governed by the trilateral Ministerial-level Council that implements the NAAEC, continues its efforts on numerous fronts and devotes a significant portion of its annual work program to trade and environment issues. The Environmental Protection Agency (EPA) takes the lead role, through the interagency process, at

the CEC on behalf of the U.S. Government. The CEC work program encompasses four broad areas: environment, economy, and trade; conservation of biodiversity; pollutants and health; and law and policy. The projects in the annual work program are designed to deepen cooperation among the Parties by furthering environmental sustainability in open markets and stewardship of the North American environment. For example, at its 2003 meeting, the CEC Council adopted a strategic plan for North American cooperation in the conservation of biodiversity, supporting a biodiversity strategic plan developed by officials in all three NAFTA countries. The CEC continued its work in the area of children's health, and aims to develop a set of environment and health indicators by 2004. In 2003, the CEC also kicked off a ten-year review of the NAFTA and the NAAEC. The review will assess the implementation of the NAAEC and the environmental effects of the NAFTA.

USTR also participated in the NAFTA 10(6) group (named after the provision of the NAAEC addressing CEC cooperation with the NAFTA itself). The 10(6) group is composed of senior trade and environment officials from all three NAFTA governments, that meets to discuss issues of common concern. At its 2003 meeting, the CEC Council requested the 10(6) group to report back to the Council regarding its work on cross-cutting trade and environment issues, and a proposed agenda for a possible future trade and environment ministers meeting.

In June 2002, the Council agreed to work with their trade counterparts to arrange a forum where interested parties could express their views on the implementation and operation of NAFTA Chapter 11 (Investment). USTR worked with its Canadian and Mexican counterparts to arrange a meeting with interested stakeholders in Montreal in May 2003. The input received at this meeting helped inform the transparency measures developed by the NAFTA Investment Experts Group, and adopted by the Free Trade Commission in October 2003.

3. The Western Hemisphere

U.S. negotiators continued to identify and pursue relevant trade-related environmental issues within the framework of the FTAA. Complementary environmental elements in the overall Summit of the Americas Plans of Action are intended to further regional cooperation.

The United States also has continued to support efforts by the FTAA Civil Society Committee to expand opportunities for two-way communication with members of civil society throughout the Hemisphere. The Committee carefully considered civil society's submissions on the full range of issues, including environmental concerns.

4. Bilateral Activities

The Bush Administration has adopted the policy of using the deepened economic relationship that comes from new trade agreements to enhance environmental policy cooperation with our new FTA partners. These negotiations are led by the Department of State with full interagency cooperation. As a complement to the Morocco FTA negotiations, the United States and Morocco negotiated a Joint Statement on Environmental Cooperation that will establish a Working Group on Environmental Cooperation, develop a plan of action and set priorities for future environment-related projects. Areas for environmental cooperation already identified include: environmental law and infrastructure development; economic incentives and voluntary programs; coastal protection and preservation of fisheries; conservation of natural resources and protected areas; and environment-related technology. In addition to the Joint Statement, USAID and EPA have developed a project that will focus on building Morocco's capacity to develop its environmental laws, institutions and enforcement mechanisms—consistent with the commitments that Morocco will take on as part of the FTA.

An Environmental Cooperation Agreement with Central America will also be linked to the Central America Free Trade Agreement (CAFTA). Similar to the Joint Statement with Morocco,

this Agreement will identify priorities for environmental cooperation and establish a Joint Commission on Cooperation to administer the Agreement.

USTR has just completed FTA negotiations with Australia, and has initiated negotiations with the five countries of the Southern African Customs Union. USTR is seeking provisions in these agreements that similarly incorporate the Trade Act guidance and U.S. trade and environment priorities.

USTR worked with other agencies to address the environmental cooperation aspects of the Chile and Singapore FTAs. USTR and the agencies have begun implementing the eight environmental cooperation projects outlined in the Chile FTA. These projects will address environmental issues identified during the FTA negotiations and the environmental review of the FTA, such as promoting cleaner fuels in Chile, and improving environmental enforcement and compliance. USTR also participated in the State Department-led negotiation of an Environmental Cooperation Agreement (ECA) with Chile, and a Memorandum of Understanding (MOU) on environmental cooperation with Singapore. The MOU and ECA will guide future cooperative efforts, including environmental capacity building that addresses the linkages between trade and the environment.

The United States also announced its plans to negotiate an FTA with Bahrain and the Dominican Republic. In preparation for the negotiations with Bahrain, USTR initiated a trade capacity building project in Bahrain, which included training on environmental law enforcement.

B. Trade and Labor

The trade policy agenda of the United States includes a strong commitment to protecting labor rights and protecting the rights of workers, both in America and in our trading partners. Expanded trade benefits all Americans through lower prices and greater choices in products available to

consumers. Many American workers benefit from expanded employment opportunities created by trade liberalization. In pursuing these objectives, we use the bipartisan congressional guidance contained in the Trade Act of 2002 to bring the benefits of trade and open markets to America and the rest of the world. USTR worked cooperatively with other USG agencies in multilateral, regional and bilateral fora to promote respect for core labor standards, including the abolition of the worst forms of child labor, in pursuing labor provisions in numerous trade agreements consistent with the bipartisan guidance contained in the Trade Act of 2002.

During 2003 the United States conducted trade negotiations with five Central American countries, (Honduras, Nicaragua, Guatemala, El Salvador, and Costa Rica), as well as with Morocco, and Australia. We also tabled labor text for the Free Trade Area of the Americas (FTAA) this past year and expect to engage in negotiations during 2004. Trade negotiations were also launched on an FTA with the South African Customs Union (SACU); negotiations on the labor chapter of the FTA with SACU will begin in 2004. The President has also notified Congress of his intent to negotiate in 2004 with the Dominican Republic, Bahrain, the Andean countries and Panama. In keeping with TPA guidance, all of these proposed FTAs will include substantial labor provisions.

1. Trade Act of 2002 (TPA) Guidance on Trade and Labor

The importance of the linkages between trade and labor is underscored by the fact that the Bipartisan Trade Promotion Authority Act of 2002 (TPA) has labor-related clauses in three sections of the legislation: overall trade negotiating objectives; principal negotiating objectives; and the promotion of certain priorities to address U.S. competitiveness in the global economy.

The overall labor-related U.S. trade negotiating objectives are threefold. First, to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization (ILO). TPA

defines core labor standards as: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. Second, to strive to ensure that parties to trade agreements do not weaken or reduce the protections of domestic labor laws as an encouragement for trade. And third, to promote the universal ratification and full compliance with ILO Convention 182—which the United States has ratified—concerning the elimination of the worst forms of child labor.

The principal trade negotiating objectives in TPA include, most importantly for labor, the provision that a party to a trade agreement with the United States should not fail to effectively enforce its labor laws in a manner affecting trade. TPA recognizes that the United States and its trading partners retain the sovereign right to establish domestic labor laws, and to exercise discretion with respect to regulatory and compliance matters, and to make resource allocation decisions with respect to labor law enforcement. To strengthen the capacity of our trading partners to promote respect for core labor standards is an additional principal negotiating objective, as is to ensure that labor, health or safety policies and practices of our trading partners do not arbitrarily or unjustifiably discriminate against American exports or serve as disguised trade barriers. A final principal negotiating objective is to seek commitments by parties to trade agreements to vigorously enforce their laws prohibiting the worst forms of child labor.

In addition to seeking greater cooperation between the WTO and the ILO, other labor-related priorities in TPA include the establishment of consultative mechanisms among parties to trade agreements to strengthen their capacity to promote respect for core labor standards and compliance with ILO Convention 182. The Department of Labor is charged with consulting with any country seeking a trade

agreement with the United States concerning that country's labor laws, and providing technical assistance if needed. Finally, TPA mandates a series of labor-related reviews and reports to Congress in connection with the negotiation of new trade agreements. These include an employment impact review of future trade agreements, the procedures for which are modeled after the Executive Order establishing environmental impact reviews of trade agreements. A meaningful labor rights report, and a report describing the extent to which there are laws governing exploitative child labor, are also required for each of the countries with which we are negotiating.

2. Multilateral Efforts

At the WTO Ministerial meetings in Singapore (1996) and Seattle (1999), the United States was among a group of countries supporting the creation of a WTO working party to examine the interrelationships between trade and labor standards. At the 2001 Doha WTO Ministerial, we supported a similar proposal which was put forth by the EU, but a vocal group of developing countries adamantly opposed this proposal. The text of the Doha Ministerial Declaration, adopted by consensus, therefore, includes the following:

“We affirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work underway in the International Labor Organization (ILO) on the social dimensions of globalization.”

The 2003 Cancun WTO Ministerial focused solely on the Doha negotiating agenda, and adopted no declaration.

The work on the social dimensions of globalization underway at the ILO is being done by the Working Party on the Social Dimensions of Globalization of the ILO's Governing Body. The ILO is unique among international organizations in that it has a tripartite (Government, employer and worker representatives) membership in all of its committees and constituent bodies. Thus, the

Working Party on the Social Dimensions of Globalization has a representative not only of the U.S. Government, but also the U.S. Council for International Business and the AFL-CIO. As a further extension of this work, the ILO created a “World Commission on the Social Dimension of Globalization.” During 2003 the United States Trade Representative met twice with the Director-General of the ILO to discuss the work of the World Commission and to encourage greater policy coherence and cooperation between the WTO and the ILO. We look forward to the report of the World Commission in 2004.

The United States remains the largest donor to the work of the ILO. The United States has been particularly supportive of two ILO initiatives: the International Program on the Elimination of Child Labor (IPEC), and work to implement the 1998 *ILO Declaration on Fundamental Principles and Rights at Work*. Recognizing that all child labor will never be eliminated until poverty is eliminated, IPEC/ILO efforts have focused on the means to eliminate the worst forms of child labor, including child prostitution and pornography, forced or bonded child labor, and work in hazardous or unhealthy conditions.

3. Regional Activities

The Thirteenth Inter-American Conference of Ministers of Labor (IACML), hosted by Brazil in September 2003, continued the implementation of the labor-related mandates of the Third Summit of the Americas that began with the Ottawa IACML meeting in 2001. The Salvador Declaration, endorsed by labor ministers at the XIII IACML, is groundbreaking in its emphasis on the importance of considering labor in the FTAA negotiation process, and the need for greater integration of economic and labor policies.

The Salvador Plan of Action provides for the continued examination of the impacts of trade and integration on labor within Working Group 1, chaired by Argentina and vice-chaired by the United States. A second working group focuses on capacity-building of Labor Ministries, including improving the ability of Ministries to effectively

promote the *ILO Declaration on Fundamental Principles and Rights at Work*. Each of these working groups will involve the ILO, the Organization of American States, the Inter-American Development Bank, the UN's Economic Commission for Latin America and the Caribbean, the Business Technical Advisory Committee on Labor Matters and the Trade Union Technical Advisory Committee in their work.

In their November 2002 Quito Declaration, the hemisphere's Trade Ministers not only renewed the commitment to observe the *ILO Declaration*, but also noted the IACML Working Group's examination of the question of globalization related to labor and requested that the results of that work be shared with them. In response to this request, the IACML “troika” leadership, the Ministers of Labor from Canada, Brazil and Mexico, attended the FTAA Trade Ministerial in Miami in November 2003 to report on the IACML's work on labor and integration. The Labor Ministers called for the strengthening of social dialogue in the Summit of the Americas process so that economic integration under the Summit process is pursued in a satisfactory manner.

Other regional trade and labor activities carried out under NAFTA/NAALC and the OECD are noted in those sections of this report.

4. Bilateral Activities

The signing and Congressional approval of the Chile and Singapore FTAs, which include texts that fully incorporated Congressional guidance on trade and labor contained in TPA, establishes a firm basis for future bilateral agreements linking trade and labor. President Bush signed the Singapore FTA on May 6, 2003 and Ambassador Zoellick signed the Chile FTA in Miami on June 6, 2003. In each of these FTAs the parties reaffirm their obligations as ILO members and commit to strive to ensure that core labor standards, including the *ILO Declaration on Fundamental Principles and Rights at Work* and ILO Convention 182 concerning the worst forms of child labor, are recognized and protected by domestic labor laws. Each Party is also obligated to effectively enforce

its labor laws, subject to the discretionary authority spelled out in TPA.

Cooperation and consultations are the preferred means to achieve the labor objectives and assure compliance with all obligations. However, if a dispute settlement panel were to find that a party had failed to enforce its labor laws in a manner affecting trade, and if the countries cannot agree on a settlement, the panel would establish a monetary assessment, based on criteria such as the trade effect and pervasiveness of the violation.

In commercial trade disputes, the assessment is supposed to be calculated solely on “trade effects.” Since the quantifiable trade effect of a labor violation is likely to be very small, the agreements include other criteria for the panel to use in determining the assessment. The assessment may not exceed \$15 million per violation per year. The proceeds of the assessment would go into a fund, established under the agreement, and expended only upon the direction of a joint commission. The intention is for the funds to be used to address the underlying labor problem. The assessment must be paid each year until the country comes into compliance with its obligations.

If a party fails to pay the assessment within a reasonable period, the other party may take appropriate steps to collect the assessment, including suspending tariff benefits under the FTA sufficient to collect the assessment, bearing in mind the agreement’s objective of eliminating barriers to bilateral trade while seeking to avoid unduly affecting parties or interests not party to the dispute.

The United States has negotiated the same TPA-consistent, means of dispute settlement for labor clause violations in the Central America, Morocco, and Australia FTAs. The SACU FTA will also follow this guidance.

In approaching labor issues in the context of negotiations with Central America, the United States adopted a three-pronged strategy. The first element is labor text that fully incorporates TPA guidance as well as the guidance received in

consultations with the House and Senate Committees. The language in the labor chapter is stronger and more comprehensive than in earlier FTAs, such as the Chile FTA, requiring that tribunals for the enforcement of labor laws be fair, equitable, transparent, and that such proceedings not entail unwarranted delays. In addition, the Labor Cooperation and Capacity Building Mechanism in the CAFTA provides opportunities for public participation in the development and implementation of labor cooperation activities.

A second, equally important, element has been intensive bilateral consultations with each of our negotiating partners focused on assessing—and addressing where necessary—key labor issues in each country. While the CAFTA negotiations were ongoing, the five CAFTA countries asked the ILO to conduct a review of their labor laws relating to fundamental principles and rights at work. The ILO report makes clear that all five countries have laws giving effect to all of the ILO’s fundamental principles and rights at work, but the report also pointed out gaps in the law where improvements could be made to better protect worker rights.

The third element of our strategy is the design and implementation of labor cooperation and capacity building programs to strengthen the capacity of our partners in Central America to better protect worker rights once the agreement takes effect. These initiatives include a regional project in Central America funded through a grant of \$6.75 million from the U.S. Department of Labor to increase workers’ and employers’ knowledge of their national labor laws, strengthen labor inspections systems, and create and bolster alternative dispute resolution mechanisms. Several such programs are also being carried out in Morocco aiming to train workers on worker rights issues, to enhance the Labor Ministry’s capacity to increase compliance with labor laws, and to help eradicate the worst forms of child labor.

Our bilateral textile agreement with Cambodia has a unique aspect in that import quotas may be

increased dependent upon the efforts of the government to effectively enforce its domestic labor laws and protect the fundamental rights of Cambodian workers. With funds jointly provided by the U.S. Department of Labor, the Government of Cambodia and the apparel manufacturers association, the ILO monitors working conditions in Cambodian enterprises and reports on the results of that monitoring. Based upon the government's efforts to effectively enforce its labor laws—and according to findings supported by ILO monitoring reports and two field visits—at the end of 2003 the U.S. Government approved a 14 percent increase in quota levels for next year.

The U. S. bilateral textile agreement with Vietnam, concluded early in 2003, also includes a labor provision. Both parties reaffirm their commitments as members of the ILO, and also indicate their support for implementation of codes of corporate social responsibility as one way of improving working conditions in the textile sector. The agreement also calls for a review of progress on the goal of improving working conditions in the textile sector when the U.S. Department of Labor and the Ministry of Labor, Invalids and Social Affairs of the Socialist Republic of Vietnam meet to review the implementation of the Memorandum of Understanding between the two ministries signed in November 2000. The topic of working conditions in the textile sector was discussed in the November 2003 consultations held in Hanoi.

A final aspect of trade and labor bilateral activities relates to the worker rights provisions of U.S. trade preference programs, such as the Andean Trade Preference Act (ATPA), as amended, and the Generalized System of Preferences (GSP). The 2003 Annual ATPA Review is the first such review to be conducted pursuant to the ATPA regulations on the eligibility of countries for the benefits of the ATPA. As part of this process, petitions were filed requesting the review of certain practices in several countries regarding compliance with the eligibility criteria set forth in the ATPA. A number of petitions were filed regarding Ecuador on matters related to worker rights.

The Trade Policy Staff Committee (TPSC) is conducting a preliminary review of these petitions. The results of the preliminary review, including any proposed modifications to the application of the ATPA, will be published in the *Federal Register* on or about March 31, and public comment will be sought.

Any modifications to the list of beneficiary developing countries or eligible articles resulting from this review of progress will be published in the *Federal Register*.

During 2003, USTR also reviewed a number of petitions requesting that GSP trade preferences be withdrawn from countries for not taking steps to afford internationally recognized worker rights. In September 2003, USTR announced the 2001 and 2002 country practice petitions that were accepted for review, namely those on Swaziland and Guatemala. Public comments were solicited and hearings were held on the worker rights practices in these countries in October 2003. Acceptance of a petition for review does not indicate any opinion with respect to disposition on the merits. Acceptance indicates only that the TPSC has found the petitions eligible for merit review through the interagency process. As the year ended, the Guatemala and Swaziland reviews were still in progress. The Bangladesh country practice review on worker rights, originally accepted in 1999, also continues. GSP petitions were filed in 2003 against Costa Rica and El Salvador. A decision on whether to accept these cases for review is pending.

C. Organization for Economic Cooperation and Development

Thirty market democracies in Europe, North America, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris. In 2001, these countries accounted for 59 percent of world GDP (in purchasing-power-parity terms), 76 percent of world trade, 95 percent of world official development assistance, and 19 percent of the world's

population. The OECD is not just a grouping of these economically significant nations, however, but also a policy forum covering a broad spectrum of economic, social, and scientific areas, from macroeconomic analysis to education to biotechnology. The OECD helps countries by promoting economic growth and free markets. Each substantive area is covered by a committee of member government officials, supported by Secretariat staff. The emphasis is on discussion and peer review, rather than negotiation, though some OECD instruments are legally binding, such as the Anti-Bribery Convention. OECD decisions require consensus among member governments. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora, such as the World Trade Organization (WTO).

The OECD conducts wide-ranging outreach activities to non-member countries and to business and civil society, in particular through its series of workshops and “Global Forum” events held around the world each year. Non-members may also apply to participate as observers of committees for which they meet “major player” and “mutual benefit” criteria. The OECD carries out a number of regional and bilateral cooperation programs. The Russia program, for instance, supports Russia’s efforts to establish a market economy and eventually join the OECD.

1. Trade Committee Work Program

In 2003, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment, competition, and agriculture, continued to address a number of issues of significance to the multilateral trading system. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and facilitate WTO negotiations, deepening understanding of the rationale for continued progressive trade liberalization in a rules-based environment. The Trade Homepage on the OECD website (www.oecd.org/trade) contains up-to-date information on published analytical work

and other trade-related activities. Major analytical pieces completed under the Trade Committee during 2003 included studies on “Quantifying the Benefits of Liberalization of Trade in Services” and on “Regionalism and the Multilateral Trading System.” Reflecting the needs of WTO negotiators in Geneva, additional work addressed the benefits of trade facilitation measures, welfare gains resulting from further liberalization in tariffs, liberalizing trade in environmental goods, and the impact on government revenues of tariff cuts. In a joint project with the United Nations Conference on Trade and Development, the OECD produced a series of papers on managing request-offer negotiations under the General Agreement on Trade in Services in two specific sectors. Other analytical work covered the use and impact of different types of non-tariff barriers, structural adjustment in textiles and clothing, and the impact on economic performance of trade reforms undertaken by countries benefiting from debt relief under the HIPC [Heavily Indebted Poor Country] Initiative.

2. Competition Policy and Trade

The Joint Group on Trade and Competition (JG) continued work on issues at the intersection of trade and competition policy with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD as well as in other fora, particularly the WTO. The JG has helped to promote mutual understanding and interaction between the trade and antitrust “cultures,” as well as better clarity and coherence of approaches toward issues of common interest. The JG met twice in 2003 and approved Secretariat papers on the potential application of the principles of transparency, non-discrimination, and procedural fairness to competition law concerns, on the possible use of peer review and other compliance mechanisms in a multilateral framework on competition policy, and on the “role of special and differential treatment at the trade, competition, and development interface.” These papers were the subject of a Joint Global Forum on Trade and Competition held at the OECD on May 15-16, which was intended to assist countries, in

the run-up to the WTO Ministerial Meeting in Cancun, to better evaluate the implications of closer multilateral cooperation in the competition field for their development policies and objectives. Representatives of over 60 countries, including trade and competition experts from both OECD member and non-member countries, as well as NGOs and international organizations, participated in this event.

3. The OECD Anti-Bribery Convention: Deterring Bribery of Foreign Public Officials

The OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force in February 1999. The Convention was adopted by the 29 members of the OECD and five non-members in 1997. The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). In 2001, Slovenia, also a nonmember, became the thirty-fifth country to sign the Convention. The Convention requires the parties to criminalize bribery of foreign public officials in executive, legislative, and judicial branches, levy dissuasive penalties on those who offer, promise or pay bribes, and implement adequate accounting procedures to make it harder to hide illegal payments. All 35 signatories have adopted legislation to implement the Convention.

Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms had lost international contracts estimated in the billions of dollars every year due to bribery payments to corrupt officials. Such payments also distort investment and procurement decisions in developing countries, undermine the rule of law and create an unpredictable environment for business.

By the end of 2003, all signatories except Turkey had undergone a review of their respective national legislation implementing the Convention. The signatories to the Convention commenced the second phase (i.e., Phase II) of peer monitoring—the evaluation of enforcement—in

November 2001. By the end of 2003, eight countries had been so reviewed: Finland, the United States, Iceland, Germany, Bulgaria, Canada, France and Norway. The United States has successfully pressed for an accelerated Phase 2 monitoring schedule and OECD budget funds to support it. The Working Group on Bribery will undertake seven of these country reviews in 2004 with the goal of completing the first 35 country review cycle in 2007. The OECD Convention Parties will also continue to study whether the Convention's coverage should be expanded to include several related issues, including the bribery of foreign political parties and candidates.

4. Dialogue with Non-OECD Members

The OECD has continued its contacts with non-member countries to encourage the integration into the multilateral trade regime of developing and transitional economies, such as the countries of Eastern Europe and Central Asia, leading developing economies in South America and Asia, and sub-Saharan African countries.

The April 2003 Ministerial Council Meeting (MCM) focused on a global agenda for growth and development. The OECD invited ten non-member countries from Africa, Asia, Eastern Europe, Latin America, and the Middle East to its trade-related discussions. Other non-members participated in the OECD Forum held concurrently with the MCM, which looked at growth and development and included sessions on export credits, agricultural policy reform in an international context, and intellectual property rights, as well as a trade ministers' panel on the Doha Round. Argentina, Brazil, Chile, Hong Kong, and Singapore remain active non-member observers of the Trade Committee and its Working Party. As part of its series of Global Forum on Trade events, the OECD organized a conference on the "Market Access Challenge in the Doha Development Agenda" in May 2003, for which 60 countries, including 34 non-members, registered.

The OECD organized three events in 2003 connected to its ongoing trade policy dialogue

with transition economies. Two focused on trade in services: a forum in late June on trade in services in South Eastern Europe that was held in Bucharest, and an informal Working Party meeting in December on strategies for developing regional and multilateral trade in services in transition economies. Both events attracted attendance from Members, the Baltic states, and Russia as well as the countries of South Eastern Europe. The third event, a meeting of experts from OECD countries with Russian government officials, took place in Moscow in early June, and was aimed at developing government analytical capacity in the trade policy area.

The Trade Committee's fifth informal consultation with civil society organizations took place in October 2003. Discussion centered on assessments of the WTO Ministerial Meeting in Cancun and on a way forward. U.S. members of the OECD's Business and Industry Advisory Committee and of the U.S. Government's Technical Advisory Committees participated in the consultation.

5. Environment and Trade

The OECD Joint Working Party on Trade and Environment (JWPTE) met twice in 2003 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment. During the year, the JWPTE contributed important work on environmental goods and services to support the Doha negotiating agenda. The JWPTE developed a series of cases studies involving eight developing countries, which identify complementary measures that can ensure the maximum realization of benefits from the liberalization of environmental goods and services markets. The JWPTE's work on environmental goods also focused on the practical considerations relating to defining environmental goods and services for the purposes of market access negotiations. The United States proposed additional new work in this area as well which would explore the synergies between liberalization of environmental goods and environmental services. The JWPTE undertook

work on the development dimension of trade and environment, building upon the development initiatives agreed upon at Doha. The work involved identifying lessons learned from the case studies developed in 2002. The JWPTE also undertook work on labeling for environmental purposes, focusing on developing country access to developed country markets under select eco-labeling programs. The JWPTE began work in 2003 to support the trade and environment-related elements of the September 2002 World Summit for Sustainable Development plan of implementation.

6. Export Credits

The OECD Arrangement on Guidelines for Officially Supported Export Credits places limitations on the terms and conditions of government-supported export credit financing so that competition among exporters is based on the price and quality of the goods and services being exported, rather than on the terms of government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries (tied aid). The Participants to the Arrangement, a stand-alone policy-level body of the OECD, are responsible for implementing the 25-year-old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

Under the Arrangement, the Export-Import Bank of the United States (Ex-Im Bank), the U.S. export credit agency, no longer has to offer loans with low interest rates and long repayment terms. In addition, the "level playing field" created by the Arrangement's tied aid disciplines has allowed U.S. exporters to increase their exports by about \$1 billion a year. These exports would have cost taxpayers about \$300 million in annual appropriations to Ex-Im Bank if the United States had to create its own tied aid program in order to compete.

A major success was achieved in 2003. Members of the OECD Working Party on Export Credits

and Credit Guarantees (ECG) reached consensus on a landmark agreement that requires export credit agencies to evaluate the environmental impact of the projects that they are considering, lays out the procedures to be followed when performing an evaluation, and sets minimum standards to be used. The agreement marks the conclusion of several years of intensive negotiations. In 2001, the United States rejected a draft agreement for its failure to ensure that appropriate environmental standards would be used, and its failure to provide basic transparency. Other ECG members chose to implement the agreement voluntarily. After two years of implementation experience, other ECG members were willing to strengthen the OECD agreement during the mandated review in 2003. At this point, the United States was able to join the agreement, which was then formalized by the OECD Council.

The OECD tied aid rules continue to reduce tied aid dramatically and redirect it from capital projects, where it has had trade-distorting effects, toward rural and social sector projects. Tied aid levels were nearly \$10 billion in 1991 before the rules were adopted, but were reduced to \$2.5 billion in 2002 (from \$3.5 billion in 2001)—its lowest level on record. Data for the first half of 2003 indicate that a further decline is expected, to perhaps as low as \$1.5 billion.

On January 1, 2003, an agreement took effect that banned tied aid in Central and Eastern Europe and key countries of the former Soviet Union (FSU), and formally incorporated the agreement into the Arrangement. The agreement keeps these newly opened markets free from the trade-distorting effects of tied aid until such time as their per capita income levels increase and render them ineligible for tied aid. Prior to January 1, 2003, Central and Eastern Europe and the former Soviet Union were the subject of two separate agreements that had taken effect at different points in time. The new agreement merged and

updated these two agreements. Inclusion of the new agreement into the Arrangement eliminates the temporary nature of the FSU agreement, which had to be renewed annually by consensus.

In November 2003, the United States submitted to participants a revision of its 2002 proposal to apply the tied aid disciplines to untied aid. Untied aid is a form of aid financing that is not currently subject to multilateral disciplines but can have trade-distorting effects. Furthermore, because untied aid is not governed in any way, other participants can circumvent existing anti-trade distortion disciplines by simply declaring their aid to be untied. Japan is the largest provider of untied aid, and its levels of untied aid are increasing. In addition, other governments are beginning to offer untied aid and at increasing rates. The United States had hoped that its revised proposal would facilitate acceptance, but Japan continued to block provisions for basic transparency with respect to untied aid. As a result, the Treasury Department is pursuing this issue in the G-7 Finance Minister forum.

Participants are addressing a number of other issues, including a review of market window behavior. Market windows are quasi-governmental financial institutions that support national exports and yet are unbound by multilateral rules. In 2002, Congress requested that the Administration negotiate disciplines for market windows and report on the status of those negotiations in 2004.

One of the biggest challenges to face participants in recent years is how to address certain issues raised by some developing countries.¹ In 2002, participants began a concerted effort to assure that the Arrangement rules equitably address the trade finance needs of both developing countries and OECD members. The major portion of this work was achieved in 2003 with the redrafting of the Arrangement to address specific issues and princi-

¹ As noted above, the negotiation of the export credit rules at the OECD has led to substantial subsidy reductions pursuant to the Arrangement—a result that may not have been possible if the rules had been negotiated in a consensus forum that included those countries that benefit from such subsidies.

ples that have been identified in the course of WTO dispute settlement proceedings. More specifically, the goal of the redrafting exercise was to improve the consistency of the text with regard to relevant international obligations (i.e., the WTO Agreement on Subsidies and Countervailing Measures), to enhance the clarity and user-friendliness of the Arrangement (i.e., to draft it for all export official credit providers and not just the OECD countries), and to increase transparency vis-à-vis non-participants. The new Arrangement text is to be implemented January 1, 2004. The participants will continue to work with non-OECD members in 2004 and beyond to improve and refine the Arrangement rules to ensure and maintain a level playing field for all governments providing official export credit support.

7. Investment

International investment issues are studied and discussed in several OECD bodies, and the United States places a high priority on this work. The United States believes that discussions within the OECD can help build international consensus on the meaning and importance of certain investment protection standards, promote voluntary adherence by multinational enterprises to appropriate business practices, and strengthen understanding of the ways in which investment can promote development. The United States continues to play a major role in shaping the work of investment-related bodies and initiatives within the OECD.

The Committee on International Investment and Multinational Enterprises (CIME) plays the leading role in the analysis of international investment issues within the OECD. It is also responsible for the implementation of the OECD Declaration on International Investment and Multinational Enterprises. CIME examined several investment protection issues in 2003. Member countries considered a study, prepared by the OECD Secretariat, entitled “Bilateral Investment Treaties, Regional Agreements and Multilateral Investment Disciplines,” which reviewed the compatibility of most-favored nation (MFN) clauses in an array of international

investment agreements. CIME is considering additional analysis of international jurisprudence relating to the interaction of MFN provisions across investment agreements. CIME also examined two other Secretariat papers, on the “Fair and Equitable Treatment Standard in International Investment Law” and “Indirect Expropriation and the Right to Regulate in International Investment Law.” Legal experts from Member countries discussed these two papers during a December meeting. The United States believes the OECD can play a useful role in shaping global norms in areas like these, and has sought to exercise leadership within CIME on investment protection issues.

The OECD continued in 2003 to expand its outreach on investment issues to non-members. These efforts included follow-up work with Russia on implementation of the policy recommendations in the OECD Russia Investment Survey; the publishing of a comprehensive study of foreign direct investment (FDI) policy in China, entitled “OECD Investment Policy Review of China: Progress and Reform Challenges;” and the 2003 Global Forum on International Investment, which focused on “Modern Governance and Transparency for Investment.” CIME, in close association with the OECD Committee on Non-Members, has also proposed a Middle East and North Africa (MENA) investment initiative and supports an OECD Investment Initiative for Growth and Development in Africa. This work is part of an overall OECD strategy aimed at promoting the coherence of development policies and increased investment for development. As part of this strategy, CIME is also studying the relationship between Official Development Assistance (ODA) and FDI. Additional outreach initiatives for non-members included an invitation to Argentina to make a presentation to CIME on the impact on FDI and Argentina’s international obligations of measures imposed by the government in response to the country’s economic crisis, and consideration of a request by Romania to become an adherent to the Declaration on International Investment and Multinational Enterprises.

CIME plays an active role in promoting corporate social responsibility through its oversight of the voluntary OECD Guidelines for Multinational Enterprises. In September 2003, CIME hosted the third annual meeting of National Contact Points (NCPs), the government agencies designated by each OECD member country to monitor implementation of the guidelines within its territory. The NCP annual meeting provided an opportunity to review the third year of implementation activity under the revised guidelines. The meeting confirmed that the visibility and use of the guidelines have increased, with governments, business entities, labor unions, non-governmental organizations, and other civil society leaders referring to or relying on the guidelines as an instrument for the promotion of appropriate business conduct.

The 2003 OECD Roundtable on Corporate Responsibility, held in conjunction with the annual meeting of the NCPs, focused on how the OECD guidelines could be used with other anti-corruption instruments to enhance the anti-corruption practices and policies of business. The United Nations Expert Panel on Illegal Exploitation of Natural Resources and Other Forms of Wealth in the Democratic Republic of the Congo discussed the OECD guidelines in its October 2002 report. This prompted a number of NCPs to seek to resolve issues related to the applicability of the guidelines to the activities of OECD Member country firms doing business in the Congo. The October 2003 Final Report of the UN Expert Panel noted the cooperation of the NCP in implementing the guidelines.

8. Labor and Trade

The Trade Union Advisory Committee (TUAC) to the OECD, made up of 56 national trade union centers from OECD member countries, has played a consultative role to the OECD since 1962. There were three joint consultations in 2003 between TUAC and BIAC (the Business and Industry Advisory Committee). TUAC and BIAC held joint consultations on lifelong learning, and participated actively in the OECD Meeting of the Employment, Labor and Social Affairs Committee

at the Ministerial Level in September 2003. TUAC's statement from the Ministerial concluded that: "Ministers must mandate the OECD to contribute to building the Social Dimension of globalization through joint work with other international organizations, in particular the ILO..." The OECD liaison committee with International Non-governmental Organizations met with TUAC representatives on "Post-Cancun—Challenges and Opportunities for Global Governance" in December 2003.

9. Regulatory Reform

Since 1998, the OECD Trade Committee has contributed to OECD work on domestic regulatory governance on the basis of country reviews of regulatory reform efforts. The United States has supported this work on the grounds that targeted regulatory reforms, e.g. those aimed at increasing transparency, can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

The Trade Committee's work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making; non-discrimination; avoidance of unnecessary trade restrictions; use of internationally harmonized measures where available/appropriate; recognition of the equivalence of other countries' procedures for conformity assessment where appropriate; and application of competition principles.

The Trade Committee undertook reviews of France and Germany in 2003, bringing to a total of twenty the country studies it has reviewed (for all G7 countries, plus thirteen other OECD Members). The Secretariat commenced work on a review of (non-member) Russia. In addition, the OECD organized a Global Forum on Governance in March that looked at how appropriate regulatory policy could advance the objectives of the Doha Development Agenda. Finally, the APEC-OECD Cooperative Initiative on Regulatory

Reform held two workshops in 2003 aimed at developing an integrated checklist to help countries assess their progress in implementing the common principles on regulatory reform.

10. Services

Work in the OECD on trade in services has continued to provide analysis and background relevant to WTO negotiations, with emphasis on issues of importance to developing countries in the negotiations. The Secretariat, in cooperation with UNCTAD, produced papers on energy and insurance services to aid developing countries in the request-offer process of the negotiations. In September, the OECD presented a paper in the Council for Trade in Services in Special Session in the WTO, which paper provided examples and case studies of services exported by developing countries. In November 2003, the OECD held its fourth “services experts” meeting, which was organized jointly with the World Bank. The meeting, attended by representatives of developing countries, focused on the roles of individuals as service suppliers (called “mode four” in the GATS) and their treatment in trade agreements.

11. Steel

As noted in the “Steel Trade Policy” section of this report, the Administration continues to work hard to achieve the goals set out in the President’s Initiative on Steel in order to reach more lasting solutions to the structural problems of the global steel industry. These problems have contributed to a decades-long, cyclical proliferation of unfair trade and trade remedy responses. As a result, the United States and other major steel-producing countries launched talks in the OECD —via the creation of a “High-Level Group” of government officials—to address the inter-related problems of global excess, inefficient steel capacity and the market distorting practices which help to sustain such capacity. U.S. government officials have helped to spearhead these OECD efforts to urge the market-driven rationalization of the world’s excess, inefficient steelmaking capacity, while also formulating better disciplines over practices

that can distort markets and trade—beginning with and focusing on government subsidies.

In the summer of 2003, the High-Level Group met at the OECD to take stock of the progress being made to advance the agenda relating to uneconomic steel capacity and market distorting practices, and to provide further political-level guidance for the work being done since its previous meeting in December 2002. Much of this work has occurred in technical subsidiary bodies—the Capacity Working Group and the Disciplines Study Group—set up in 2002 to explore more deeply the relevant issues.

In the Capacity Working Group, the participating governments have agreed upon a number of improvements in the notification and review of information concerning global steel capacity developments so that such developments are subject to a more transparent and rigorous reporting standard. Global steel capacity trends are now examined in accordance with a structured “peer review” procedure which was established with the active involvement of the United States. In this process, governments are expected to supply detailed information as to capacity trends in their steel industries and are called upon to answer questions from other governments regarding the accuracy of capacity estimates or the appropriateness of government policies that may help to sustain uneconomic capacity. Based on the most recent information submitted, the latest estimates of closure of excess, inefficient steelmaking capacity indicate that there was closure of 105 million metric tons of capacity worldwide during the period from 1998-2002, with another 29-35 million tons projected to be closed between 2003-2005.

Reported new installations bring the net worldwide closure numbers to a lower, but still significant, amount: 72-78 million tons in the 1998-2005 period. However, closures appear to be leveling off, and there is much new capacity being created in response to a surge in demand, particularly in China. The United States will continue to press other countries to pursue only

market-driven restructuring and investment through the work of the Capacity Working Group.

With respect to market-distorting practices, nearly 40 governments have been working intensively to develop an agreement that would reduce or eliminate trade-distorting government subsidies to the steel sector, establishing stronger rules and going well beyond current international disciplines. Significant progress has been made in elaborating upon its core elements (*e.g.*, the nature and extent of the subsidy prohibition) and identifying options for resolving difficult issues. However, major points of contention remain, such as: (1) whether subsidies beyond limited plant closure aid should be exempted from the envisaged blanket prohibition of all subsidies; (2) the kind and level of special and differential treatment, if any, that should be accorded to developing countries; and (3) whether and to what extent the agreement should address trade remedies. We have worked well with the other participants to promote progress in these talks, but significant differences of view remain on some of these key issues. The goal remains to produce an “advanced negotiating text” for political level review by the spring of 2004 and to conclude negotiations by the end of 2004.

12. Developing Countries

During 2003, the Trade Committee and its Working Party discussed a number of issues of particular concern to developing countries on which the OECD had undertaken analysis. These included revenue losses associated with the lowering of tariffs, structural adjustment in textiles and clothing, and the impact of preference erosion. In October 2003, the Trade Committee discussed in joint session with the Chair of the OECD Development Assistance Committee (DAC) enhancing coherence between trade policy and development strategies. Members noted the Trade Committee’s ongoing efforts to take account of policy impacts on developing nations in its work.

The Trade Committee built on its previous work with the DAC to make available current OECD work helpful to trade negotiators, particularly from developing countries. In 2003, twenty-three recent OECD analytical papers on topics relevant to the Doha Development Agenda were put together as a CD-ROM “Tool Kit II.” The OECD distributed copies of the Tool Kit II free of charge to all WTO Member governments at the WTO Ministerial Meeting in Cancun in September; free updates are available through a link on the OECD website. The Tool Kit II also contains interviews with Trade Directorate staff members and video presentations from the June 2003 OECD Global Forum on Trade.

In addition to that Global Forum, which focused on the “market access challenge in the DDA” (Doha Development Agenda), the OECD organized other trade-related outreach events for developing countries in 2003. These included a regional workshop on “promoting merchandise trade” for African business, government, and non-governmental organization representatives, held in December in Nairobi; a regional workshop on “trade capacity building and private sector development in Asia,” held in Phnom Penh also in December; and a conference on trade and investment for African and international private and public sector leaders, held in Dakar in April.

With support from the United States, the OECD in 2003 continued working with the WTO on their joint trade capacity building database. The database identifies trade-related technical assistance and capacity building efforts of multilateral agencies and national governments within the context of the DDA. This information is critical to improving knowledge of available assistance and assessing responsiveness to developing country needs. All multilateral and bilateral donors contributed to the compilation of information. The database indicates that the United States was the largest bilateral donor, accounting alone for over half of bilateral trade capacity building assistance in 2002. The information from the database is being widely distributed among donors and

developing country trade officials to coordinate more effectively trade-related technical assistance activities worldwide.

D. Semiconductor Agreement

On June 10, 1999, the United States, Japan, Korea and the European Commission announced a multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the fifth party. The 1999 Joint Statement on Semiconductors reflects over a decade of progress under three previous semiconductor agreements toward opening up the Japanese market to foreign semiconductors, improving cooperation between Japanese users and foreign semiconductor suppliers, and eliminating tariffs in the top five semiconductor producers (the United States, Japan, Korea, the European Union, and Chinese Taipei). Moreover, whereas activities in the 1990's were focused on the Japanese market, today the agenda under this unique forum covers a broad range of public policy issues aimed at promoting the health growth of the global semiconductor market through improved mutual understanding between industries and governments, and cooperative efforts to respond to challenges facing the semiconductor industry.

In May 2003, industry CEOs representing all five parties held their fourth World Semiconductor Council (WSC) meeting under the 1999 Joint Statement. The WSC was created under a previous Joint Statement (1996) to provide a forum for industry representatives to discuss and engage in cooperation concerning global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. Membership in the WSC requires governments of national/regional industry associations to have eliminated semiconductor tariffs, or committed to eliminate these tariffs expeditiously.

The 1999 Joint Statement also requires that governments and other authorities meet at least once a year to receive and discuss the recommendations of the WSC regarding policies that may affect the future outlook and competitive conditions within the global semiconductor industry. The fourth such meeting was held in November 2003, hosted by the United States. At that meeting, the WSC recommended that government authorities pursue the following policies: promotion of open and competitive markets around the world; protection of intellectual property rights; non-discrimination for foreign products in all markets, including a lowering of China's VAT rate to 3 percent on all semiconductors, regardless of origin; promotion of fair and effective antidumping rules; discouraging the use of copyright levies on digital equipment; expanding participation in the Information Technology Agreement (ITA); re-affirmation of the principle that in all markets, the competitiveness of semiconductor producers—and not trade-distorting measures—should be the principle determinant of success; full protection of intellectual property; adoption of policies that promote the growth of e-commerce, including a permanent customs duty moratorium on electronic commerce transactions; and adoption of environmental regulations that are both the least trade restrictive possible and based on scientific assessments of the risks posed by the targeted materials and their likely substitutes. The WSC has invited China to become a party to the Joint Statement, reflecting China's increasing importance as a producer and consumer of semiconductors. China is expected to become the second-largest market for semiconductors, behind the United States, by 2010.

E. Steel Trade Policy

In 2003, the Administration continued to implement the President's comprehensive strategy to respond to the challenges facing the United States steel industry. This strategy, announced on June 5, 2001, is designed to restore market forces to world steel markets and to eliminate practices that harm the U.S. steel industry and its workers.

The Administration's initiative contains three elements. First, the President directed the United States Trade Representative to request that the International Trade Commission initiate an investigation, under Section 201 of the Trade Act of 1974, of serious injury to the steel industry caused by increasing imports of steel products. Second, the President directed the United States Trade Representative, in cooperation with the Secretaries of Commerce and Treasury, to initiate negotiations with our trading partners to eliminate inefficient excess capacity in the steel industry worldwide. Finally, the President directed the United States Trade Representative, together with the Secretaries of Commerce and Treasury, to initiate negotiations on the rules that will govern steel trade in the future, so as to eliminate the underlying market-distorting subsidies that led to the current conditions of the global steel industry.

The President, in March 2002, imposed temporary safeguard measures after a comprehensive investigation by the U.S. International Trade Commission (ITC), which found that imports of certain steel products were a substantial cause of serious injury to domestic steel industries. These safeguard measures, which were intended to give our domestic industry an opportunity to adjust to import competition, took the form of tariffs, ranging from 8 percent to 30 percent on imports of ten steel product groups, and a tariff-rate quota (TRQ) on steel slab. In order to minimize the impact of these tariffs on U.S. consumers, imports of more than 1,000 niche steel products not sufficiently available from domestic producers were excluded from the relief. In addition, imports from our free trade partners and most imports from developing countries were excluded.

After the safeguards were implemented, several WTO Members requested consultations under the WTO Dispute Settlement Understanding. When consultations failed to resolve the dispute, a panel was established to consider the complaints. The WTO panel issued a report in July 2003 finding that the United States did not establish a sufficient basis for imposing the safe-

guard measures. The United States appealed the panel report, and the Appellate Body report was released on November 10, 2003. The WTO Appellate Body upheld the Panel's ultimate conclusion that each of the ten U.S. safeguard measures was inconsistent with WTO rules.

On September 19, 2003, the ITC issued its midterm report regarding the steel safeguard measures. The ITC midterm report documented a number of changes that occurred in domestic and global steel markets. The ITC reported that "since the imposition of the safeguard measures, the industries producing steel products (subject to the safeguard) have undergone major restructuring and consolidation." The ITC report also indicated that steel producers and workers "negotiated groundbreaking collective bargaining agreements since the imposition of the safeguard measures."

On December 4, 2003, President Bush signed a proclamation terminating the steel tariffs and the TRQ. The proclamation stated: "The U.S. steel industry wisely used the 21 months of breathing space we provided to consolidate and restructure. The industry made progress increasing productivity, lowering production costs, and making America more competitive with foreign steel producers." As indicated in the proclamation, the President concluded that the safeguard measures have achieved their purpose, and as a result of changed economic circumstances, maintaining the measures was no longer warranted.

In his proclamation, the President indicated that the Administration will continue its steel import licensing and monitoring program which was established concurrently with the safeguards so it can respond to future import surges that could unfairly damage the industry.

Significant progress was made in implementing the other elements of the Administration's steel strategy. In December 2002, the world's major steel-producing countries began negotiations in the OECD to eliminate market-distorting government practices in steel trade, focusing first on the substantial reduction and elimination of

market-distorting steel subsidies. The agreement by all of the world's major steel producers to begin these negotiations was a historic achievement in a sector of the world economy that has defied previous reform efforts. Participants also reached consensus on a work schedule that aims to produce an advanced working text by the spring of 2004. The participants in the OECD discussions of excess inefficient steel capacity have forecasted significant closure of such capacity, and have commenced a robust peer

review process in which governments report information and answer questions about capacity developments within their territories. Projections by participants in this process show that excess inefficient capacity will fall by 72 to 78 million metric tons from 1998 through 2005. The ongoing work on steel at the OECD represents the most sustained and comprehensive commitment of any Administration—and any country—to address the root causes of ongoing market distortions in the world steel market.