

IV. OTHER MULTILATERAL ACTIVITIES

A. Trade and the Environment

The Administration has continued and enhanced its efforts to address environmental objectives through multilateral, regional, and bilateral trade initiatives. On the multilateral front, the United States has been a global leader in seeking to discipline harmful fisheries subsidies and eliminate barriers to trade in environmental technologies and services, including clean energy technologies, through the WTO as part of the Doha Development Agenda (DDA). Following the 2007 conclusion of negotiations on free trade agreements containing new groundbreaking environmental provisions associated with the bipartisan trade deal with the Congress, and congressional approval of the agreement with Peru, the Administration worked cooperatively with the government of Peru to ensure implementation of those provisions in advance of the agreement's entry into force in January 2009. The Administration has also utilized additional bilateral trade fora, such as the United States-Indonesia Trade and Investment Framework Agreement (TIFA) and the Strategic Economic Dialogue with China, to leverage action on critical global environmental challenges, such as illegal logging.

1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States is active on all aspects of the DDA trade and environment agenda. In particular, the United States contributed in 2008 to the intensification of work on liberalization of trade in environmental goods in the Committee on Trade and Environment (CTE) in Special Session, including through a joint proposal with the European Communities that lays the groundwork for an innovative new agreement on environmental goods and services (EGSA) and action to eliminate trade barriers to climate-friendly technologies. The United States believes that increased market access for environmental goods and services is an effective means to enhance access to environmental technologies around the world and has continued to advance pragmatic ideas for product coverage and modalities in negotiations on environmental goods. In the Rules Negotiating Group, the United States continues to lead in pressing for stronger disciplines on fisheries subsidies that contribute significantly to global overcapacity and overfishing. In July 2008, the United States, together with Australia and New Zealand, contributed a paper providing an overview of the issues and reaffirming the co-sponsors' strong commitment to an ambitious result, building on an earlier U.S. proposal to prohibit the most harmful subsidies that significantly influenced a Chairman's draft text issued in November 2007.

With respect to the DDA trade and environment agenda that does not specifically involve negotiations, the United States continued to play an active role in 2008, particularly through emphasizing the importance of capacity-building. This work included discussions in the CTE Regular Session with respect to the environmental implications of all areas under negotiation in the DDA.

USTR co-chairs the U.S. delegation to the OECD Joint Working Party on Trade and Environment (JWPTE), which met twice in 2008. Work has focused on trade, environment, and development issues with an emphasis on the role of environmental goods and services liberalization in promoting "win-win-win" scenarios for trade, the environment, and sustainable development; the role of regional trade agreements (RTAs) in promoting environmental awareness; and emerging areas of overlap between trade and climate change. These activities are discussed further in the OECD section of this report (Chapter IV, Section C).

USTR also participates in U.S. policy making regarding the implementation of various multilateral environmental agreements to help ensure compatibility between the activities of these organizations and U.S. environment-related trade policy activities. 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 Convention on Biodiversity and the Cartagena Protocol on Biosafety, and the Stockholm Convention on Persistent Organic Pollutants. USTR also participates in U.S. policy making regarding activities related to the United Nations Environment Program and the UN Framework Convention on Climate Change.

USTR leads U.S. participation in the International Tropical Timber Agreement (ITTA), a commodity agreement whose objectives include sustainable management of tropical forests. Negotiations for a successor agreement to the 1994 ITTA were concluded in 2006. Once it comes into force, likely during the course of 2009, the new agreement is expected to strengthen efforts to promote trade in the context of sustainable management. USTR also continues to be involved in the trade-related aspects of a variety of other international forest policy undertakings, including implementation of President Bush's Initiative to Address Illegal Logging, launched in 2003. In addition, USTR participated extensively in U.S. policy making regarding the compliance regimes of the International Commission for the Conservation of Atlantic Tuna (ICCAT) and other regional fisheries management organizations, as well as in the negotiation of a new agreement in the UN Food and Agriculture Organization (FAO) on Port State Measures to address illegal, unreported and unregulated (IUU) fishing. USTR has also participated in the development of a new agreement in the International Maritime Organization (IMO) to address environmental standards for regulating ship recycling.

In addition, USTR leads United States participation in another international commodity agreement, the International Coffee Agreement (ICA). Since rejoining the International Coffee Organization (ICO) in February 2005, the United States has stressed the need to reform and revitalize the organization. In 2007, these efforts focused on the negotiation of a new ICA, which was concluded in September 2007. The new ICA is designed to enhance the ICO's role as a forum for intergovernmental consultations, to increase its contributions to meaningful market information and market transparency and to ensure that the organization plays a unique role in developing innovative and effective capacity building in the coffee sector. Among the capacity-building features of the new agreement is a "Consultative Forum on Coffee Sector Finance" to promote the development and dissemination of innovations and best practices that can enable coffee producers to better manage the financial aspects of the volatility and risk associated with competitive and evolving coffee markets. As a result of the new agreement, the ICO will be in a better position to facilitate international trade and sustainable development in the coffee sector.

2. Bilateral Activities

The environment chapters of the trade agreements with Peru, Colombia, Panama, and Korea include obligations to implement and enforce provisions in a number of multilateral environmental agreements, such as those covering trade in endangered species, conservation of marine resources, and wetlands protection. In addition, the environment chapter in the Peru Trade Promotion Agreement includes an annex on forest sector governance that will lead to substantial improvements in Peru's management of its biodiversity-rich tropical forest resources. The annex also includes procedures for audits and verifications to monitor bilateral trade in forest products. In 2008, USTR worked with an interagency team to monitor and assist Peru to implement these provisions prior to entry into force of the agreement.

The United States has moved ahead with implementation of important environmental provisions of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). The

Secretariat for Environmental Matters is operational and has received three submissions concerning environmental enforcement issues since 2007. The United States authorized development of a factual record on the issues raised in the first submission in late 2008; the other two are currently being processed by the Secretariat. Additionally, each Party has set up an advisory committee to provide it with advice concerning implementation of the Environment Chapter.

The United States and Uruguay agreed to a protocol to the United States-Uruguay Trade and Investment Framework Agreement concerning public participation in trade and environmental policy. Both Parties agreed to promote public awareness of their trade and environmental laws and policies and to provide for meaningful opportunities for the public to participate in trade and environmental policy.

The United States and China have created a Bilateral Forum comprised of representatives of relevant government agencies to oversee work under a 2007 Memorandum of Understanding (MOU) between the United States and China on combating illegal logging and associated trade. This MOU establishes a framework for bilateral cooperation on combating illegal logging and associated trade, particularly with respect to goods traded by either country. Through the Bilateral Forum the Parties have begun to identify priority activities, including establishing a mechanism that will facilitate the exchange of information on trade in timber and products made of timber and promoting private sector efforts to understand their supply chain. Significantly, under the MOU the United States and China will be able to provide important support for third countries seeking to sustainably manage their forests by further closing markets to timber that has been illegally harvested.

USTR also chairs a Working Group on Illegal Logging and Associated Trade under the United States-Indonesia Trade and Investment Agreement. The Working Group was created by a first-of-its-kind MOU with Indonesia that was concluded in 2006. The Working Group meets regularly to share information on timber trade, including information on illegally produced timber products, and to enhance cooperation in law enforcement activities. Key results of Working Group meetings in 2008 included agreements on a regular exchange and review of bilateral trade data and plans for a joint, public report on progress combating illegal logging. The Working Group also monitored projects funded under the MOU, including training for customs and law enforcement officials, assistance for Indonesia's efforts to develop a legality standard, and enhancing partnerships with NGOs and the private sector. The agreement is designed to promote forest conservation by combating illegal logging and associated trade, and to help ensure that Indonesia's legally produced timber and wood products continue to have access to markets in the United States and elsewhere.

3. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with EPA and other agencies in representing the United States in addressing North American trade and environmental issues, including under the NAFTA environmental side agreement -- the North American Agreement on Environmental Cooperation (NAAEC) -- and the border environmental infrastructure agreements. These institutions were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement. The trilateral Commission on Environmental Cooperation (CEC) has responsibility for implementation of the NAAEC. USTR works closely with EPA, trade and environment officials in Canada and Mexico, and the Secretariat of the CEC to implement the CEC's strategic plan on trade and environment. This strategic plan identifies six priority areas for CEC projects: renewable energy; trade and enforcement of environmental laws; ongoing environmental assessments of NAFTA; green purchasing; market-based mechanisms for sustainable use; and invasive alien species. As part of their implementation of this strategic plan, the Parties are examining ways in which environmental sustainability can promote

competitiveness. They are also taking steps to ensure that work under the NAAEC and the NAFTA on related issues is coordinated.

B. Trade and Labor

The trade policy agenda of the United States includes a strong commitment to protecting the rights of workers in America and in countries with which we trade and promoting a level playing field for American workers. Expanded trade benefits all Americans through better jobs, lower prices, and greater choices in products available to consumers.

American workers benefit from expanded employment opportunities created by trade liberalization. A concerted focus on worker training and education policies will continue to ensure that the American workforce can compete with anyone. For workers displaced by trade, the Trade Adjustment Assistance Reform Act of 2002 (Title I of the Trade Act of 2002) modified and expanded the Trade Adjustment Assistance (TAA) for Workers program. TAA helps workers adversely affected by foreign trade by providing, among other things, job training, income support while in training, job search and relocation allowances, and tax credits for health insurance coverage. Congress has appropriated funds for the TAA program through March 6, 2009, under a continuing resolution; final appropriations action has not yet been completed. Additional information on the TAA program is available in Chapter V, Section B of this report.

In pursuing labor rights objectives through free trade agreements, USTR relied on the congressional guidance contained in the Bipartisan Trade Promotion Authority Act of 2002 (TPA). In addition, the United States' trade agreements with Peru, Colombia, Panama, and Korea, the United States incorporated the principles articulated in the Bipartisan Agreement on Trade Policy of May 10, 2007 between the Executive Branch and congressional leaders. In 2008, USTR continued to consult with the U.S. Congress on the implementation of FTA labor provisions and to work with Costa Rica, Oman, and Peru to ensure that the labor commitments were met as part of implementation of the FTAs with those countries. USTR also continued to work cooperatively with other U.S. agencies in multilateral, regional, and bilateral fora to promote respect for core labor standards, including the abolition of the worst forms of child labor.

1. Bipartisan Trade Promotion Authority Act of 2002 (TPA) – Trade and Labor

The importance of the linkage between trade and labor was underscored by labor-related clauses in three sections of TPA: 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 were threefold. The first objective was to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization (ILO). TPA defined 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. The second objective was 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. The third objective was to promote the universal ratification of, 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 most important for labor included 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 recognized that the United States and its trading partners retain the sovereign right to establish domestic labor laws, exercise discretion with respect to regulatory and compliance matters, and make resource allocation decisions with respect to labor law enforcement.

Additional principal negotiating objectives included strengthening the capacity of U.S. trading partners to promote respect for core labor standards and ensuring that the labor, health or safety policies and practices of U.S. trading partners did not arbitrarily or unjustifiably discriminate against American exports or serve as disguised trade barriers. A final principal negotiating objective was 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 included 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 Secretary of Labor was charged with consulting with any country seeking a trade agreement with the United States concerning that country's labor laws and with providing technical assistance if needed. Finally, TPA mandated a series of labor-related reviews and reports to the U.S. Congress in connection with the negotiation of new trade agreements. These included an employment impact review of future trade agreements, the procedures for which were modeled after Executive Order 13141, which establishes environmental impact reviews of trade agreements. A report addressing labor rights and a report describing the extent to which there are laws governing exploitative child labor were also required for each of the countries with which USTR negotiates a free trade agreement.

2. Bipartisan Agreement on Trade Policy of May 10, 2007

The Bipartisan Agreement identifies particular obligations that should be undertaken by parties to free trade agreements which the United States has negotiated with Peru, Colombia, Panama, and Korea. Two of the principal labor-related obligations are that each Party adopt and maintain in its statutes and regulations certain rights as stated in the ILO *Declaration on Fundamental Principles and Rights at Work and its Follow-Up* and that neither Party may waive or derogate from those statutes and regulations, or fail to effectively enforce them or other labor laws, in a manner affecting trade or investment between the Parties. Another labor-related provision is that decisions on the distribution of enforcement resources shall not be a reason for non-compliance with labor chapter obligations. Under the Bipartisan Agreement, FTA labor obligations should be subject to the same dispute settlement procedures and remedies as the commercial obligations.

3. 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, the United States supported a similar proposal sponsored by the European Union (EU) that a group of developing countries adamantly opposed. The text of the Doha Ministerial Declaration, adopted by consensus, 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.”

In the Hong Kong Ministerial Declaration adopted during the 2005 WTO Ministerial, the governments reaffirmed the declarations and decisions adopted in Doha and their full commitment to give effect to them.

The United States remains the largest donor to the work of the ILO. The United States has been particularly supportive of the ILO's International Program on the Elimination of Child Labor (IPEC). ILO-IPEC 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.

Activities to combat the worst forms of child labor continued in 2008, including in many of the U.S. trading partner countries. Total U.S. contributions to ILO-IPEC and other organizations in support of projects to address exploitive child labor in Fiscal Year 2008 amounted to approximately \$58 million, helping to finance 15 projects and other activities (such as research on the incidence of child labor) in 20 countries.

Labor issues also have been discussed in the Asia Pacific Economic Cooperation (APEC) forum. In 2008, the United States supported the discussion of labor rights among the areas relevant to the member economies' efforts to strengthen regional economic integration. In this regard, the United States, along with Korea and New Zealand, tabled language on a labor chapter model measure. Model measures are intended to promote a coherent and consistent approach for APEC economies to negotiate high quality trade agreements. The labor model measure received significant support, but ultimately was not reported to leaders due to lack of consensus. More information on efforts to promote regional convergence can be found in Chapter III, Section B of this report.

4. Regional Activities

The Inter-American Conference of Ministers of Labor (IACML) is a meeting of the Western Hemisphere's Labor Ministers, held approximately every two years under the auspices of the Organization of American States (OAS) in order to promote hemispheric cooperation on labor issues. The IACML responds to the labor mandates agreed to by Heads of State in the Summit of the Americas process. Trinidad and Tobago is the current chair of the IACML and hosted the Fifteenth IACML in September 2007.

At the Fifteenth IACML, labor ministers unanimously adopted a Declaration that reaffirmed their commitments regarding the ILO *Declaration on Fundamental Principles and Rights at Work* and the commitments by Heads of State in the Fourth Summit of the Americas. This included commitments to eradicate the worst forms of child labor, reduce youth unemployment, respond to decent work challenges in the Hemisphere, and strengthen the capacities of labor ministries. Ministers also endorsed the Plan of Action of Port of Spain that continues the two IACML Working Groups and encourages the sharing of best practices. Brazil chairs Working Group 1, with the United States and Guyana as vice-chairs. This Working Group focuses on decent work as a tool for promoting democracy in the context of globalization. El Salvador chairs, with Canada and Uruguay as vice-chairs, Working Group 2, which focuses on strengthening the capacities of labor ministries. Argentina will become president *pro tempore* of the 16th IACML, which will take place in Buenos Aires in September 2009. The ILO, the Organization of American States, the Inter-American Development Bank, and the UN's Economic Commission for Latin America and the Caribbean, along with the Business Technical Advisory Committee on Labor Matters (CEATAL) and the Trade Union Technical Advisory Committee (COSATE), participate in IACML meetings and activities. CEATAL and COSATE presented a Joint

Declaration to the Fifteenth IACML that highlighted the role of social dialogue and the importance of training and lifelong learning.

In 2008, the IACML work program examined government policies addressing the informal economy; programs to promote micro, small, and medium enterprises; and programs to enhance the effective enforcement of labor laws.

The Inter-American Network for Labor Administration (RIAL) was created by the Ministries of Labor of the Americas as a mechanism to support the implementation of the IACML Plan of Action. The Cooperation Fund of the RIAL finances bilateral technical exchanges between the Ministries of Labor of the Americas. These activities provide training and strengthened institutional capacities for participating labor ministries. The U.S. Department of Labor has participated in several bilateral technical exchanges supported by the RIAL Cooperation Fund. In addition, the Department of Labor partnered with the Brazilian Ministry of Labor and the OAS to organize a seminar on Youth Employment in the Americas in May 2008.

Other regional trade and labor activities carried out under the North American Agreement on Labor Cooperation/North American Free Trade Agreement and the OECD are noted in those sections of this report.

5. Bilateral Activities

a. FTAs

Reflecting a key element of the May 2007 Bipartisan Agreement on Trade Policy, for the first time in U.S. free trade agreements, the agreements with Peru, Colombia, Panama, and Korea include a commitment by each party to implement in its law and practice the fundamental labor rights as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work*. Each agreement provides that neither party shall waive or derogate from the statutes and regulations that implement this obligation in a manner affecting trade or investment between the parties. Additionally, the agreements include a commitment by each party not to fail to effectively enforce its labor laws, including its laws embodying the fundamental labor rights as stated in the ILO Declaration, through a sustained or recurring course of action or inaction in a manner affecting bilateral trade or investment.

All obligations set out in each labor chapter are subject to enforcement through the same dispute settlement procedures and enforcement mechanisms as each agreement's commercial obligations. The labor chapters commit each party to designate an office within its labor ministry to serve as a contact point for purposes of the labor chapter and create labor cooperation and capacity building mechanisms through which the parties will work together to enhance opportunities to improve labor standards and to further advance common commitments regarding labor matters.

The United States continued to implement bilateral trade agreements that fully incorporated the congressional guidance on trade and labor contained in TPA and the Bipartisan Agreement. In 2008, the United States worked with Costa Rica, Oman, and Peru through the FTA implementation process to ensure that these trading partners met all labor chapter obligations before the trade agreements entered into force. Specifically, all three countries designated an office within their labor ministries to be the contact point with the United States and the public on labor matters related to the FTA, and developed specific procedures for receiving and considering communications from the public. The establishment of this contact point is an important transparency measure contained in all trade agreements negotiated under TPA.

The Office of Trade and Labor Affairs (OTLA) in the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor serves as the contact point for purposes of administering responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation (NAALC), including the labor cooperation mechanisms. OTLA procedural guidelines for handling public submissions under free trade agreements were published on December 21, 2006 (Fed. Reg. vol. 71, no. 245, Dec 21, 2006, 76691-76696). DOL received the first submission under the CAFTA-DR in 2008, alleging worker rights violations in Guatemala. In accordance with DOL procedural guidelines, OTLA accepted the submission for review on June 12, 2008 and conducted extensive research on the issues raised in the submission. In December, OTLA extended the time for review of the submission due to the receipt of additional relevant information and anticipated issuance of a report in early 2009.

As mentioned above, each FTA includes a labor cooperation mechanism to help ensure the longer term capacity of U.S. trading partners to meet their obligations under the labor chapters, including capacity building programs designed to strengthen the capacity of labor ministries and the effective enforcement of labor laws. As part of promoting labor cooperation under the CAFTA-DR, and in accordance with the labor chapter of that agreement, the CAFTA-DR Labor Affairs Council meeting of labor ministers was held in El Salvador in November 2008. The council meeting included a discussion among ministers and vice-ministers from the seven labor ministries, and was followed by a public session at which civil society was given the opportunity to hold an open dialogue with the council members on capacity building initiatives and other matters related to the labor chapter.

The Administration committed approximately \$20 million in FY 2005, \$40 million in FY 2006 and FY 2007, and \$30 million in FY 2008 for labor and environment initiatives in CAFTA-DR countries. Of these funds, approximately \$75 million has been directed toward labor initiatives, including projects to strengthen labor ministries, modernize labor justice systems, reduce gender and other types of workplace discrimination, promote a culture of compliance with labor laws, and benchmark and verify progress. These initiatives are supplemented by Department of Labor-funded programs aimed at the elimination of child labor, to which approximately \$20 million has been directed between FY 2005 and FY 2008.

An interagency group comprising the Departments of State and Labor, USTR, USAID, and other agencies was established to program the funds. These agencies identify appropriate projects in consultation with the CAFTA-DR governments and in view of the 2005 *White Paper* on strengthening compliance and enhancing capacity issued by the *Working Group of the Vice Ministers Responsible for Trade and Labor in the Countries of Central America and the Dominican Republic*.

Several labor programs are also being carried out in Morocco, Oman, Bahrain, Jordan, and Egypt aiming to train workers on worker rights issues, to enhance the labor ministries' capacity to increase compliance with labor laws, and to help eradicate the worst forms of child labor. In 2008, the U.S. increased and extended an ILO project in Bahrain and Oman to improve labor inspections and promote social dialogue between unions and employers. Initiated in 2007, the project budget was increased from \$300,000 to \$756,000 and extended until 2010. The United States is also funding a \$3 million project in Morocco to combat the worst forms of child labor. The project began activities in 2008, and aims to withdraw 8,000 children from, or prevent them from participating in, exploitive child labor by 2010.

b. Other Bilateral Agreements and Programs

In August 2006, the U.S. Department of Labor (DOL) and Vietnam's Ministry of Labor, Invalids and Social Affairs reaffirmed their previous commitment to labor cooperation by signing a Letter of Understanding, pledging to continue the annual labor dialogue and cooperation on labor matters of mutual

interest, including international labor standards, worker rights, and labor market reform. In October 2008, the annual labor dialogue, headed by the DOL Deputy Under Secretary for International Affairs, took place in Washington, D.C.

Another aspect of trade and labor bilateral activities involves the worker rights provisions of U.S. trade preference programs – the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act (CBTPA), and the Generalized System of Preferences (GSP). Pursuant to the ATPA, there is an annual petitioning process to review the eligibility of countries. ATPA petitions concerning worker rights in Ecuador were filed in 2005 and the Trade Policy Staff Committee (TPSC) continued to review worker rights conditions in that country in 2008. 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*.

As part of the 2007 GSP Annual Review process, USTR accepted for review three worker rights-related petitions concerning Bangladesh, the Philippines, and Uzbekistan, and those petitions remain under review in the 2008 GSP Annual Review. In addition, in the 2008 GSP Annual Review, USTR continued the review of a 2006 petition concerning Niger. USTR and other U.S. government officials engaged with these governments through the U.S. embassies in those countries and other bilateral fora to monitor progress and press for action to address the problems cited in the petitions. Review of whether these countries are meeting the GSP worker rights criteria will continue in 2009. Worker rights-related petitions were also filed for Iraq and Sri Lanka in 2008. Decisions on whether to accept or reject these petitions will be made in early 2009.

C. Organization for Economic Cooperation and Development

Thirty 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. The OECD member countries account for 78 percent of world GDP, 94 percent of world official development assistance, over half of the world's energy consumption, and 18 percent of the world's population. The OECD is not just a grouping of economically significant nations, 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, both OECD members and non-members, reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and efficient use of resources. 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. Most 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 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. In 2008, the OECD completed comprehensive reviews of the economies of Indonesia and South Africa, both non-member countries that participate as observers in various OECD committees. Non-members may participate as observers of committees when members believe that participation will be mutually beneficial. The OECD carries out a number of regional and bilateral cooperation programs. The China program, for instance, supports China’s efforts to establish a market economy and improve public governance.

The OECD is mainly funded by the member countries. National contributions to the annual budget are based on a formula related to the size of each member's economy, with the United States' contribution capped at just less than 25 percent. The overall budget for 2008 was projected to total 342.9 million euros (approximately \$471 million).

1. Trade Committee Work Program

In 2008, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment 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 progressive trade liberalization in a rules-based environment. The Trade Homepage on the OECD website (<http://www.oecd.org/trade>) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were developed or completed under the Trade Committee during 2008. These included the study *Technical Barriers to Trade: Evaluating the Trade Effects of Supplier's Declaration of Conformity*, which empirically assessed the impact and expected benefits of Supplier's Declaration of Conformity (SDOC) as a trade facilitating measure on trade flow, focusing on the harmonized introduction of SDOC throughout the EU for eligible medical devices, telecommunications and radio equipment and machinery. The Trade Committee also released a number of Working Papers on topics such as "Technology Transfer and the Economic Implications of the Strengthening of Intellectual Property Rights in Developing Countries" and "Trade and Innovation." Building on 2006-2007 groundwork, the Trade Committee continued its "BRIICS" project – the development of country studies on Brazil, Russia, India, Indonesia, China and South Africa, in which each country is analyzed across a set of core issues (such as goods and services liberalization and intellectual property rights) and selected country-specific issues.

Work in the Trade Committee on trade in services continued to provide analysis and background relevant to services liberalization and WTO negotiations. Services not only provide the bulk of employment and income in many OECD countries, they also serve as vital inputs for producing other goods and services. In 2008, the OECD continued its analysis of this sector. "Foreign Direct Investment (FDI) Spillovers and their Relationship with Trade," examined the increasing importance of FDI in international economic integration. The study indicated that service industries enjoy the strongest productivity-enhancing effects of FDI, and that trade liberalization can be seen as an important component of reform efforts designed to help countries maximize the benefits of FDI. Another paper, "Analysis of Subsidies for Services: the Case for Export Subsidies," took an exploratory first step in trying to understand the nature and scope of export subsidies in services.

During 2008, the OECD also provided analysis of two important service sectors: distribution and tourism. Tourism is an important sector for many developing countries with linkages to many other service sectors. In "Services Trade Liberalization and Tourism Development," the OECD explored the ways trade and investment liberalization could facilitate tourism sector growth in developing economies. "Market Structure in the Distribution Sector and Merchandise Trade" explored developments in the retail sector and the effects on trade in consumer goods.

The Trade Committee continued its work developing the first Services Trade Restrictiveness Index (STRI), a tool to measure the restrictiveness of regulations and other barriers affecting trade in services. During the year, the OECD collected data and examined barriers to trade in the three pilot sectors: business services, telecommunications, and construction services. Services experts met in June to discuss

measures affecting trade in business services and in December to discuss measures affecting trade in telecommunications and construction services. The meetings were designed to identify and rank the most important barriers to trade in these services. The results of these discussions will assist in the development of STRI methodologies.

A Global Forum on Globalization and Emerging Economies in June 2008 in Paris, France provided an opportunity to discuss the consequences for significant international markets and for the political economy of trade reform of the recent growth of the BRIICS. Several regional trade-related events were also held in 2008, including a regional forum on Trade Facilitation in June 2008 in Cape Town, South Africa, organized in collaboration with the South Africa Revenue Service (SARS) and the European Union. The participating 65 stakeholders involved in trade facilitation in Eastern and Southern Africa included WTO negotiators, trade officials, customs officers and experts, private sector representatives and representatives from regional and multilateral organizations, and the forum focused on the impact of economic factors such as cost or importance of informal trade on the efficient implementation of trade facilitation commitments.

The Trade Committee also laid the groundwork for a meeting of OECD member country trade ministers in June 2008. U.S. Trade Representative Susan C. Schwab headed the U.S. delegation. Ministers from a number of key non-members also participated. Those discussions made a positive contribution to the WTO negotiations.

In addition, the Trade Committee continued its dialogue with civil society and discussed aspects of its work and issues of concern with representatives of civil society, including members of the OECD's Business and Industry Advisory Council and Trade Union Advisory Council.

2. Dialogue with Non-OECD Members

The OECD continued its contacts with non-member countries to encourage the integration into the multilateral trade regime of developing and transition economies, such as the countries of Eastern Europe and Central Asia, leading developing economies in South America and Asia, and sub-Saharan African countries. Following the May 2007 decision of the OECD Council in Ministerial session, the OECD began a concerted drive to broaden and deepen its involvement with emerging new players in the global economy through its Accession and Enhanced Engagement Programs.

In 2008, Chile, Estonia, Israel, Russia, and Slovenia continued the OECD accession process, while enhanced engagement program participation was offered to Brazil, China, India, Indonesia, and South Africa. Enhanced Engagement is a partnership arrangement that, depending on the interests and level of participation desired by the individual countries and upon approval by respective committees, may include elements of the following: committee participation, economic surveys, adherence to instruments, integration into the statistical reporting and information systems, sector-specific peer reviews, and other actions.

In 2008, the Trade Committee and its Working Party continued its discussion on how to enhance outreach to accession and enhanced engagement candidates and other interested non-members, encouraging non-member economies to be observers on an *ad hoc* basis when their participation could both benefit from, and contribute to, the Trade Committee's work. The current regular observers in the Trade Committee are Argentina, Brazil, Chile, and Hong Kong China. These four observers, plus the remaining Enhanced Engagement and Accession countries were invited to participate in the trade ministers' session focused on the multilateral trading system at the June 2008 Ministerial Council Meeting.

3. Technical Assistance and Capacity Building

The Working Party of the Trade Committee and the OECD Development Assistance Committee (DAC) held two joint meetings during the year to discuss Aid for Trade (A4T). At the WTO's request, the OECD is supporting the A4T initiative in several ways: reporting on aid flows through the DAC's Creditor Reporting System database, and, in conjunction with the World Bank, advising on practical ways to monitor and evaluate A4T. As it did in 2007, the OECD is conducting a survey of donors and recipients on their strategies and practices in trade capacity building. This year's survey will build upon the baseline established by the 2007 survey. OECD and WTO staffs have been working closely with recipient countries to improve the response rate to the survey.

Building on the November 2008 Global Forum on A4T and working through the Trade Committee's Working Party and the DAC, OECD members and staff will pursue further work, including with the World Bank, on the monitoring and evaluation framework. This will serve as preparation for the WTO's second Global Review of Aid for Trade in June 2009.

4. Environment and Trade

The OECD Joint Working Party on Trade and Environment (JWPTE) met twice in 2008 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment, as well as its efforts to promote mutually supportive trade and environmental policies. During the year, the JWPTE contributed important work on environmental goods and services to support the WTO Doha negotiations, as well as work on identifying areas of synergy between trade and climate change mitigation policies.

The JWPTE also continued work on the environmental aspects of regional trade agreements (RTAs), including work on a checklist for trade negotiators. In this connection, the OECD held a workshop in October 2008 in Santiago, Chile. The extensive body of work highlights innovative environmental provisions in U.S. free trade agreements and associated cooperation mechanisms.

5. Agriculture and Trade

The Committee for Agriculture (CoAg) is the primary forum for discussing agriculture-related issues in the OECD. The CoAg has two flagship publications that are produced annually – the *Agricultural Outlook* and a review of *Agricultural Policies in OECD Countries*. The *Agricultural Outlook*, which is prepared in conjunction with the Food and Agriculture Organization (FAO) of the United Nations, presents the OECD-FAO 10-year baseline for agricultural commodity production and trade. In addition to the OECD countries, the market projections in the report cover a large number of other countries and regions, including Brazil, Russia, Argentina, and South Africa. The 2008 report looked closely at the various factors contributing to earlier high commodity prices and the impact of record high fuel costs on producers.

The *Agricultural Policies in OECD Countries* report was released in June 2008. The new method of classifying policies designed to better reflect new, more decoupled but also more complex policy measures was further refined and improved. Findings from the review of agricultural policies in OECD member countries indicated that despite strong commodity prices and some reform efforts in some countries, overall support to agriculture remains high, but was down somewhat in 2007 as producer-favorable commodity prices eased the need for support. Coverage of the new U.S. farm bill and the EU

midterm review is planned for the 2009 edition. The OECD also completed its PSE (Producer Support Estimate) Manual, which describes the methodology used to calculate indicators of agricultural support. Other important activities this year included further work on biofuels, including the release of a major study on the efficiency and effectiveness of support policies in OECD countries. The role of biofuels in the run-up in international food prices was also a topic of analysis. In addition to the review in the Agricultural Policies report, detailed reviews for the agricultural economies of Japan and Korea were initiated in 2008.

A review of rural development in China was launched in 2007 and completed in 2008, in conjunction with the Public Governance and Territorial Development Directorate. Significant studies exploring the effect of non-tariff measures and the impact of animal diseases on trade were launched during the year.

In late 2008, CoAg organized a Global Forum on Agriculture which looked at the role of small landholders in agriculture. A secondary topic was a review of the agricultural policies in seven major non-member economies.

In 2008, the OECD also began planning for a 2010 Agricultural Ministerial.

6. Labor and Trade

The 2008 *OECD Employment Outlook* continued the string of contributions on labor and trade found in this annual publication. In one chapter, it considered whether multinational enterprises (MNEs) promote better pay and working conditions in host countries, giving particular attention to OECD-based firms operating in developing and emerging economies, where concerns have been raised about the impact of MNEs on workers. In these economies, the OECD found that MNEs tend to pay higher wages at the firm level than their domestic counterparts, but strong evidence of better non-wage working conditions was not found. The OECD observed that many MNEs have adopted codes of conduct concerning labor practices in their foreign affiliate firms and discussed various policies aimed at strengthening the contribution of Foreign Direct Investment to improved wages and working conditions. The *Employment Outlook* is prepared by respected researchers in the Employment, Labor, and Social Affairs Directorate and is subject to peer review by a group of senior researchers from OECD Member governments. The United States actively participates in the peer-review group and currently holds the chair.

The Trade Union Advisory Committee (TUAC) to the OECD, made up of over 56 national trade union centers from OECD member countries, and the Business and Industry Advisory Committee (BIAC), which represents major business organizations in the 30 OECD member states, have played consultative roles in the operation of the OECD and its various committees since 1962. As part of the OECD Ministerial Council meeting in June 2008, joint consultations were held with TUAC and BIAC. TUAC's statement emphasized the need to: minimize the risk of rising unemployment; regulate financial markets; address growing inequality; develop a more effective approach to corporate accountability and social responsibility; develop a global strategy for dealing with the challenges of attenuating climate change; follow through on development assistance pledges by OECD countries; and support OECD enlargement. BIAC's statement emphasized that: sovereign wealth funds can contribute to the growth of OECD economies; the OECD has a leading role in promoting the freedom of cross-border investment and open markets for foreign investment, bearing in mind security considerations; climate change is a challenge to which all parts of society, including business, must respond; open trade and climate change policies can be mutually supportive; and cost-effective solutions to achieving climate stabilization goals are needed.

7. Export Credits

The OECD Arrangement for Officially Supported Export Credits (the Arrangement) places limitations on the terms and conditions of government-supported export credit financing, so that competition among exporters is based on the price, quality and serviceability of the goods and/or 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 (Participants), a stand alone policy-level body of the OECD, are responsible for implementing the 30-year-old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

The Administration estimates that the Arrangement saves U.S. taxpayers about \$800 million annually. First, rules on minimum interest rates ensure that the Export-Import Bank of the United States, the U.S. export credit agency, no longer has to offer loans with below-cost interest rates and long repayment terms to compete with such practices by other governments. Second, agreement on minimum exposure fees for country risk has generally reduced costs. Finally, the “level playing field” created by the Arrangement's tied aid disciplines has created conditions for U.S. exporters to increase their exports by about \$1 billion per year. These exports alone would have cost taxpayers about \$300 million annually since 1993, if the United States had been compelled to create its own tied aid program to compete with other programs.

The OECD tied aid rules continue to reduce tied aid 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 \$5.2 billion in 2007. For the first six months of 2008, the Participants provided \$4 billion in tied aid. This is significantly higher than tied aid levels for the same period in 2007, which was \$1.2 billion. However, as mentioned above, the tied aid rules help ensure that tied aid-financed projects represent bona fide development assistance and do not distort trade. For this reason, an increase in tied aid means an increase in the number of social sector and other such projects for which tied aid is not inappropriate.

After two years of negotiations, the Participants in July 2007 finalized a new agreement on official financing for aircraft, with Brazil participating as a full partner in the negotiations, even though it is not a member of the OECD Participants. Referred to as the Aircraft Sector Understanding (ASU), this agreement levels the playing field for the U.S. airline industry by eliminating or sharply reducing the official financing subsidies available to its foreign competitors. It also levels the playing field for U.S. manufacturers and exporters of airframes and related equipment. By requiring this financing to reflect a shared assessment of market risk, the ASU will allow aircraft sales campaigns to focus purchase decisions on price and quality, where U.S. producers excel, rather than on the terms and conditions of the financial packages, where subsidies have swayed purchase decisions. By eliminating or sharply reducing subsidies, the ASU encourages more use of market financing. The ASU covers all types of civil aircraft from jumbo jets to small planes and helicopters. In recent years, official financing for aircraft sales have supported deals valued at \$7 billion to \$10 billion annually, and the volume of financing has been growing rapidly.

In 2008, the Participants commenced a review to update the Nuclear Sector Understanding. The rules for nuclear power plant financing have not been updated since they were first agreed upon in 1984. They have seen little use over this period, either because they are considered too onerous or because of the past unpopularity of nuclear power. However, the recent and growing interest in nuclear power as a cheaper alternative to fossil fuels and one that does not produce greenhouse gases has been the impetus for the OECD to consider moderating the financing terms.

The OECD's current fee system for export credits sets the minimum fee levels to cover country risk for both sovereign and private borrowers. OECD members are free to charge whatever they want above this minimum to cover the buyer risk portion of a transaction for private sector borrowers. However, the nature of government financing has changed over the last decade, such that OECD members now sell their goods predominantly to private sector entities in foreign countries rather than to foreign governments. Because of this, the OECD launched a new initiative in 2008 that would establish a fee system to account for the commercial risk posed by private sector buyers. The Participants have asked the Working Group of Experts on Premium to report their progress by November 2009.

8. Investment

The Investment Committee of the OECD is the primary multilateral forum for addressing international investment issues. The Committee's discussions and analytical work help build international consensus on key emerging policy challenges with respect to international investment and on ways to promote sound investment policy and high standards of investment protection. The Committee also seeks to promote voluntary adherence by multinational enterprises to sound business practices. The Committee is responsible for monitoring and implementing the OECD Codes of Liberalization and the OECD Declaration on International Investment and Multinational Enterprises. The United States plays a major role in shaping investment-related work within the OECD.

In view of recent developments among members and key non-members regarding maintaining national security or protecting other important national interests in relation to foreign investment, the OECD Investment Committee continued work in 2008 on surveying practices in this area and evaluating their implications for sustaining and promoting an open investment policy among OECD members and non-members. In March, October, and December 2008, the Committee hosted roundtables on "Freedom of Investment, National Security and 'Strategic' Sectors," in which OECD members and key non-members (e.g., Brazil, India, Russia, and China) continued to discuss approaches being taken to address national security interests and other essential interests and their potential implications for sustaining open investment policies. The roundtables focused on changes to legislative and regulatory practices at the juncture of investment policy and national security, threats to advances in investment liberalization, such as emerging protectionist pressures, and possible steps on international cooperation designed to address the issues. The OECD has finished Phase One of the work, in which members and key non-members took stock of the state of investment policy and national security practices, discussed issues arising from the stocktaking portion of the work and is now looking to 2009 when the Secretariat will release a final report on the Freedom of Investment project.

In the context of the project, the OECD has begun a discussion of the emerging issue of sovereign wealth funds (SWFs) in the global economy. The focus of the Committee's work is possible policy implications of SWF investment and sovereign investment generally and appropriate policies to address any concerns consistent with the imperative of maintaining open investment regimes. In April 2008, the OECD published an Investment Committee report on "Sovereign Wealth Funds and Recipient Country Policies." This report draws on the broadly accepted principles identified by the OECD – non-discrimination, transparency, predictability, proportionality, and accountability – that characterize open investment policies and are guideposts against which countries that receive SWF investments can measure their inward investment policies. The OECD formally endorsed the report at its June ministerial. In addition to this report, the OECD Investment Committee will institutionalize regularly scheduled "peer monitoring" of the investment policies of its members and certain key non-members (such as China, Russia, and India) to continue to press countries to maintain open investment regimes.

In 2008, the OECD continued its investment policy dialogue with non-members. The Middle East-North Africa Initiative (MENA), which aims to mobilize private investment for the benefit of economic development in Middle Eastern countries, continued to hold ministerial forums designed to consolidate advances from previous meetings and begin a new phase of cooperation on investment and governance policies. During this time, the MENA initiative, which will extend until 2010, began a second phase focused on a peer-learning process, the establishment of regional knowledge networks for policy development, public governance, capacity building, and the establishment of benchmarks for reform targets.

The OECD continued in 2008 to promote the Policy Framework for Investment (PFI). Developed within the past three years, the PFI is a comprehensive diagnostic tool - covering 10 broad policy areas ranging from investment to trade, competition and corporate governance - designed for use in attracting and retaining foreign and domestic investment. Work on the PFI in Vietnam continued throughout 2008, based on a schedule mutually developed by the OECD and the government of Vietnam, and other countries have expressed an interest in using the PFI, based on Vietnam's experience.

Finally, the Investment Committee continued to play an active role in 2008 in promoting corporate social responsibility through its oversight of the voluntary OECD Guidelines for Multinational Enterprises. The Committee also continues to serve as a forum for exchanges of experience on the Guidelines among national contact points (NCPs) as a source of clarification with respect to the Guidelines. It further serves as a source of guidance in addressing the role of NCPs in promoting the Guidelines and in assisting firms in the resolution of issues that arise between them and others regarding their activities in relation to the Guidelines.

9. Steel

As noted in the Steel Trade Policy section of this report, the United States supported efforts by the OECD Secretariat to review policies related to trade in inputs to steelmaking, including government restrictions on exports of raw materials. A number of non-OECD steelmaking countries, including India, China, and Russia, have been active in the OECD steel activities. In addition, work of the OECD Steel Committee continued to examine issues related to subsidies and capacity in the steel sector, as well as issues related to the challenges posed to the global steel industry by climate change mitigation policies.

10. Regulatory Reform

Since 1998, the OECD Trade Committee has contributed to OECD work on domestic regulatory governance with 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. Main areas of work on regulatory policy have included cutting red tape, policy principles, regulatory performance, regulatory tools, country reports, and outreach to non-members.

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 and appropriate; recognition of the equivalence of other countries' procedures for conformity assessment, where appropriate; and application of competition principles. It examines the mutually reinforcing relationship between trade, investment, and competition policies and promotes the substantial gains for developing countries in higher trade flows and income per capita through market and regulatory reform.

In 2008, the Trade Committee carried out in-depth member country analyses, focused on identifying regulatory processes, tools, and policies, adopted in order to support market openness and improve trade and investment opportunities. The report, “Brazil – Strengthening Governance for Growth,” advocated the following: improved coordination between ministries, agencies, regulatory institutions and levels of government in the energy, telecommunications, and transport sectors; putting in place a system to assess the economic and social impact of new laws, with formal consultation processes; strengthening the accountability of regulatory agencies towards the public; and streamlining the appeals processes to reduce delays and increase certainty for investors.

11. 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 then 29 members of the OECD and 5 non-members. The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). The three parties to accede to the Anti-Bribery Convention most recently are Estonia (2004), South Africa (2007), and Israel (2008).

The Convention and the related 1997 Revised Recommendation on Combating Bribery in International Business Transactions require parties to criminalize the bribery of foreign public officials in executive, legislative, and judicial branches; impose dissuasive penalties on those who offer, promise, or pay bribes; end the practice of some OECD member countries of allowing tax deductibility of foreign bribes; and implement adequate accounting procedures to make it harder to hide illegal payments.

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 were believed to have lost international contracts with an estimated value of billions of dollars every year due to non-U.S. firms’ 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. These consequences can be particularly damaging in developing countries.

By the end of 2008, all parties to the Convention but Israel had undergone a review of their respective national legislation implementing the Convention (*i.e.*, Phase One review) and 36 countries had completed the second phase (*i.e.*, Phase Two) of peer monitoring – the evaluation of enforcement. Information on these reviews is available at <http://www.export.gov/tcc> and <http://www.oecd.org>. The Working Group on Bribery, which meets four times a year to monitor implementation of the Convention, agreed in March 2008 to begin permanent peer reviews on a four-year cycle, to begin in 2009, in chronological order, according to the date on which each country’s Phase Two review was concluded.

The OECD Working Group on Bribery has begun a review of OECD anti-bribery instruments, covering issues related to the criminalization of the bribery of foreign public officials in international business transactions and detection/prevention of such bribery. The Working Group on Bribery is consulting stakeholders and partners for their views on what steps might need to be taken to strengthen the effectiveness of the anti-bribery instruments, based on major issues that have arisen in the course of monitoring implementation of those instruments since their adoption ten years ago.

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. The 1999 Joint Statement, which established the Government/Authorities Meeting on Semiconductors (GAMS), aims to promote the 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. Chinese Taipei and China subsequently endorsed the objectives of the Joint Statement and became the Agreement's fifth and sixth parties. All major semiconductor producers are now parties to the Joint Statement.

In 2008, implementation of the landmark 2006 GAMS agreement to reduce to zero the duties on multichip integrated circuits (also known as "multi-chip packages" or "MCPs") continued to be a priority for the GAMS parties. Efforts remain active to secure the participation of China and other non-GAMS producers as well as users of MCPs in the agreement. In addition, GAMS parties and industry developed a proposed definition of "multi-component integrated circuits" (MCOs), which would be covered under an expanded scope of HS heading 8542. This proposed definition was examined during 2008 by the World Customs Organization's Harmonized System Review Sub-Committee (RSC) in the context of its current review cycle, but the RSC felt that the proposal was not ripe for decision. However, the RSC agreed to pursue the question in the context of its next review cycle, which begins in May 2009. Resolving this definition at issue is the first step toward responding to industry's request that the MCP agreement be expanded to include MCOs. With respect to non-preferential rules of origin, GAMS parties continued to encourage industry to develop consensus rules of origin for all semiconductor products. In the area of intellectual property rights, GAMS parties agreed to work to organize a meeting of their customs authorities to discuss opportunities for international cooperation to combat semiconductor counterfeiting.

The Joint Statement provides for industry to make reports and recommendations to governments on policies that may affect the future outlook and competitive conditions within the global semiconductor industry through a CEO-level World Semiconductor Council (WSC). In May 2008, the WSC held its ninth annual meeting. Specific topics discussed by the WSC included cooperation on global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. National/regional industry associations may become members of the WSC only if their governments have eliminated semiconductor tariffs or committed to eliminate these tariffs expeditiously.

The Joint Statement also calls for the parties to hold a GAMS meeting at least once a year to receive and discuss the WSC recommendations. The ninth GAMS meeting was held in September 2008, hosted by the European Communities. At the meeting, the GAMS parties discussed WSC recommendations relating to expanded participation in the MCP agreement and a possible new agreement to provide duty-free treatment for MCOs; improving market access through the WTO Doha Development Round negotiations for semiconductors and other information technology goods; expanding participation in the Information Technology Agreement (ITA); initiatives to protect intellectual property rights and intensify enforcement activities against counterfeiting; enforcing WTO non-discrimination rules to prevent discrimination against foreign products; promoting fair and effective antidumping rules; harmonizing rules of origin for semiconductors based on a manufacturing process; and promoting sound environmental and safety practices.

E. Steel Trade Policy

In 2008, the Administration worked to address trade policy concerns related to the global steel sector through a number of fora, including the steel dialogue with China under the U.S.-China Joint Commission on Commerce and Trade (JCCT), activities in the OECD Steel Committee, and cooperation with North American governments and steel industries through the North American Steel Trade Committee

(NASTC). The United States supported efforts by the OECD Secretariat to reach out to developing steelmaking economies, including participation in a major conference hosted by the OECD in Kuala Lumpur, Malaysia, in December 2008 to discuss the volatile markets in steelmaking raw materials and government policies that may affect access to those raw materials. In addition, the United States continued work on subsidies and capacity issues, and enhanced its participation in the OECD Steel Committee, NASTC and industry meetings. Among the topics addressed were possible global climate change policies and the potential impact on trade and competitiveness in carbon-intensive manufacturing sectors, including the steel sector.

The United States continued its cooperative JCCT steel dialogue with China regarding subsidies, capacity, and trade issues. The JCCT steel dialogue is led by USTR and the U.S. Department of Commerce (Commerce) on the U.S. side and by the Ministry of Commerce (MOFCOM) on the Chinese side. The fourth steel dialogue meeting took place in Beijing in October 2008 and included the participation of industry representatives from both countries in addition to representatives of USTR, Commerce, the U.S. Department of Treasury, MOFCOM, China's Ministry of Industry and Information Technology, and China's Ministry of Finance, which is responsible for the administration of export taxes and value-added tax rebates. In the steel dialogue and in other fora, U.S. officials have continued to voice concerns with various policies of the Chinese government, including restrictions on the export of steelmaking raw materials.

After continued high levels of exports in 2007 and 2008, some Chinese steel products became the subject of new antidumping and countervailing duty investigations in a number of economies, including the United States, European Union, Canada, and Mexico. Beginning late in 2006 and accelerating in 2007, China took significant new administrative measures affecting trade in steel and steelmaking raw materials. These measures included the closure of a limited number of steel mills deemed to be obsolete or too polluting, stricter enforcement of environmental regulations applying to steel mills, and a combination of reductions in value-added tax rebates, export taxes on some products, and licensing of many exports. China also maintained or made more restrictive its export quotas on steelmaking raw materials. In addition to raising WTO concerns about China's export restrictions, the United States argued that China had acted to impose different levels of taxes on different exports of steel products and steelmaking inputs in a manner that appeared to encourage the export of certain value-added steel products. In response to the financial crisis in the fall of 2008, China rapidly reduced or removed export duties on many, but not all, steel products. The United States warned China that accelerating efforts to offset falling steel demand in China was likely to increase trade tensions.

The governments and steel industries of North America continued their wide-ranging work to seek common policy approaches for enhancing the competitiveness of North American steel producers. The governments of the United States, Canada, and Mexico worked together within the NASTC to develop coordinated positions on issues in multilateral settings of importance to steel, including the OECD Steel Committee and the WTO Rules Negotiations. Within the mandate of the NASTC, the three countries' governments and steel industries have been tracking developments in certain steel producing countries to identify and address, as appropriate, distortions in the global steel market. The Administration also continued working with the governments of Canada and Mexico to enhance the steel import monitoring systems maintained by all three NAFTA partners as well as the joint NAFTA Steel Monitor through follow-up efforts arising from the 2008 NAFTA Licensing Best Practices Summit. In addition, the NASTC industries issued a joint paper entitled "The Border Story," identifying potential impediments to intra-NAFTA trade in the three countries, particularly with respect to border infrastructure, regulations, customs practices, and licensing procedures.

The Administration also continues to raise specific concerns with other countries bilaterally, at the OECD, and in WTO meetings about policies that contribute to excess steel capacity and production,

including subsidies, border measures on steel and steelmaking raw materials, and other trade-distorting practices.

F. Anti-Counterfeiting Trade Agreement

The United States is working to strengthen cooperation with its trading partners in the fight against counterfeiting and piracy. In October 2007, USTR announced an initiative, in partnership with several key trading partners, to fight counterfeiting and piracy by seeking to negotiate an Anti-Counterfeiting Trade Agreement (ACTA). The ACTA effort brings together a number of countries that are prepared to embrace strong intellectual property rights (IPR) enforcement in a leadership group to seek a new agreement calling for cooperation, strong enforcement practices, and a strong legal framework for IPR enforcement. Trading partners engaged in four rounds of negotiations in 2008. Participants so far have included Australia, Canada, the European Union (with its 27 Member States), Japan, Korea, Mexico, Morocco, New Zealand, Singapore, and Switzerland.

G. Import Safety

To address growing concerns about the safety of imported products, President Bush established by Executive Order a working group on Import Safety (the Working Group). The Working Group is chaired by the Secretary for Health and Human Services and comprises senior Administration officials from a broad array of Federal agencies, including USTR. In September 2007, the Working Group – after conducting a comprehensive review of current practices – issued a Strategic Framework. The Strategic Framework outlines key principles for continual improvement in import safety. The Strategic Framework advocates a strategy that shifts the primary emphasis for import safety from intervention to prevention with verification. Three organizing principles form the keystones of the Strategic Framework: prevention; intervention; and response. Within each of these organizing principles are six cross-cutting building blocks: (1) Advancing a Common Vision; (2) Increasing Accountability, Enforcement, and Deterrence; (3) Focusing on Risks Over the Life Cycle of an Imported Product; (4) Building Interoperable Systems; (5) Fostering a Culture of Collaboration; and (6) Promoting Technological Innovation and New Science.

With the benefit of additional agency debate and public comment, in November 2007, the Working Group issued an Action Plan detailing 14 recommendations and 50 action steps – both long- and short-term – to implement the Strategic Framework. The Action Plan follows the Strategic Framework’s organizing principles of prevention, intervention, and response and draws on its six cross-cutting building blocks. The Action Plan emphasizes a cost-effective, risk-based approach to continually improving import safety, focusing on identifying and addressing problems where they are most likely to occur. It is an approach that moves from a “snapshot” assessment at the border to an ongoing “video” that involves building in safety at every step of the process. Implementation of the Action Plan contemplates intensified efforts with the private sector and U.S. trading partners to ensure that products reaching consumers in the United States are safe. The Action Plan’s 14 recommendations and 50 action steps, as well as the Strategic Framework, can be accessed at <http://www.importsafety.gov>.

In July 2008, the Working Group issued a progress report describing actions the Administration had taken to implement the Import Safety Action Plan since its issuance in November 2007. Among other things, the report identifies substantial progress in the convening of international forums, bilateral and multilateral discussions, international agreements, private sector advancements, federal government collaboration and information sharing, and enforcement actions. For example, the report notes high-level discussions on import safety as part of the Security and Prosperity Partnership of North America, the United States – China Strategic Economic Dialogue (SED), the United States – European Union High

Level Regulatory Cooperation Forum and the Transatlantic Economic Dialogue (TEC) as well as a bilateral talks with a variety of countries such as India, Vietnam, and recently with Brazil through the United States – Brazil Economic Partnership Dialogue (EPD) in October 2008, on ways to improve import safety. USTR’s participation in the Asia-Pacific Economic Cooperation (APEC) Subcommittee on Standards and Conformance (see below) is also highlighted.

In addition to active participation in the Working Group’s activities, USTR has continued to address the safety of imported products through its work on sanitary and phytosanitary (SPS) issues. An integral part of U.S. free trade agreements (FTAs) – including agreements with Korea and Panama signed in 2007 – are chapters concerning SPS measures. Each SPS chapter has among its stated objectives the protection of human and animal health. These chapters, among other things, establish standing committees of the parties to enhance cooperation and consultation on SPS matters and improve the parties’ understanding of each other’s SPS requirements, as well as to identify appropriate areas for capacity building and technical assistance in countries such as Panama and Peru.

Work with U.S. trading partners continues outside of FTAs as well. Prior to the December 2007 meeting of the SED with China, USTR also contributed to the U.S. Department of Health and Human Service’s efforts to conclude two memoranda of agreement (MOA) with China aimed at improving the safety of Chinese products exported to the United States. The MOAs adopt an innovative approach to improving the safety of products imported from China, including the use of foreign certification. Furthermore, the United States led efforts in the APEC Subcommittee on Standards and Conformance (SCSC) to launch new food and product safety initiatives, including the APEC Food Safety Cooperation Forum Partnership Training Institute Network (PTIN). The PTIN will enlist leadership from both the private sector and academia to create a network of food safety institutes and trainers in the APEC region. The APEC SCSC hosted a U.S.-led initiative to promote trade in safe toys in a regulator-to-regulator dialogue in July 2008 in Singapore and will hold a conference to bring all stakeholders together with regulators on the margins of the Hong Kong International Toy Fair in January 2010. These innovative capacity building efforts of the SCSC on food and product safety were recognized and endorsed by the APEC Leaders in November 2008.

The WTO SPS and Technical Barriers to Trade (TBT) Committees provide an important forum for the United States to exchange information with its trading partners on countries’ respective health and safety requirements and address concerns about their implementation. In 2008 alone, the United States Government obligated \$6.6 million in SPS trade capacity building assistance, for a total of \$70 million since 2000, and \$1.8 million in TBT trade capacity building assistance, for a total of over \$30 million in such assistance since 2000. These capacity building efforts provide an opportunity for the United States to work with its trading partners to ensure that SPS and product safety requirements are based on the best available scientific and technical information and in accordance with their health and safety objectives.

As noted in the Action Plan, strong intellectual property rights (IPR) enforcement is essential to the protection of public health and safety. In this area, USTR, with the help of other federal agencies, works with U.S. trading partners to address product counterfeiting by promoting stronger IPR laws and law enforcement around the world, for example through efforts to negotiate an ACTA. See Chapter IV, Section F for more information on this topic.