V. TRADE ENFORCEMENT ACTIVITIES

A. Enforcing U.S. Trade Agreements

1. Overview

USTR coordinates the Administration's active monitoring of foreign government compliance with trade agreements and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. Vigorous investigation efforts by relevant agencies, including the Departments of Agriculture, Commerce, and State, help ensure that these agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment. Ensuring full implementation of U.S. trade agreements is one of the Administration's strategic priorities. We seek to achieve this goal through a variety of means, including:

-Asserting U.S. rights through the World Trade Organization (WTO), including the stronger dispute settlement mechanism created in the Uruguay Round, and the WTO bodies and committees charged with monitoring implementation and with surveillance of agreements and disciplines;

-Vigorously monitoring and enforcing bilateral agreements;

-Invoking U.S. trade laws in conjunction with bilateral and WTO mechanisms to promote compliance;

-Providing technical assistance to trading partners, especially in developing countries, to ensure that key agreements like the Agreement on Basic Telecommunications and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are implemented on schedule; and

-Promoting U.S. interests under FTAs through work programs, accelerated tariff reductions, and use, or threat of use, of dispute settlement mechanisms, including with respect to labor and environment.

Through the vigorous application of U.S. trade laws and active use of WTO dispute settlement procedures, the United States has effectively opened foreign markets to U.S. goods and services. The United States also has used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits for U.S. firms, farmers, and workers.

To ensure the enforcement of WTO agreements, the United States has been one of the world's most frequent users of WTO dispute settlement procedures. Since the establishment of the WTO in 1994, the United States has filed 70 complaints at the WTO, thus far successfully concluding 46 of them by settling 23 cases favorably and prevailing on 23 others through litigation in WTO panels and the Appellate Body. The United States has obtained favorable settlements and favorable rulings in virtually all sectors, including manufacturing, intellectual property, agriculture, and services. These cases cover a number of WTO agreements – involving rules on trade in goods, trade in services, and intellectual property protection – and affect a wide range of sectors of the U.S. economy.

Satisfactory settlements. Our hope in filing cases, of course, is to secure U.S. benefits (and fairer trade for both countries) rather than to engage in prolonged litigation. Therefore, whenever possible we have sought to reach favorable settlements that eliminate the foreign breach without having to resort to panel proceedings.

We have been able to achieve this preferred result in 23 of the 50 cases concluded so far, involving: Argentina's protection and enforcement of patents; Australia's ban on salmon imports; Belgium's duties on rice imports; Brazil's auto investment measures; Brazil's patent law; China's value added tax; Denmark's civil procedures for intellectual property enforcement; Egypt's apparel tariffs; the EU's market access for grains; an EU import surcharge on corn gluten feed; Greece's protection of copyrighted motion pictures and television programs; Hungary's agricultural export subsidies; Ireland's protection of copyrights; Japan's protection of sound recordings; Korea's shelf-life standards for beef and pork; Mexico's restrictions on hog imports; Pakistan's protection of patents; the Philippines' market access for pork and poultry; the Philippines' auto regime; Portugal's protection of patents; Romania's customs valuation regime; Sweden's enforcement of intellectual property rights; and Turkey's box-office taxes on motion pictures.

Litigation successes. When our trading partners have not been willing to negotiate settlements, we have pursued our cases to conclusion, prevailing in 23 cases so far, involving: Argentina's tax and duties on textiles, apparel, and footwear; Australia's export subsidies on automotive leather; Canada's barriers to the sale and distribution of magazines; Canada's export subsidies and an import barrier on dairy products; Canada's law protecting patents; the EU's import barriers on bananas; the EU's ban on imports of beef; the EU's regime for protecting geographical indications; India's import bans and other restrictions on 2,700 items; India's protection of patents on pharmaceuticals and agricultural chemicals; India's and Indonesia's measures that discriminated against imports of U.S. automobiles; Japan's restrictions affecting imports of apples, cherries, and other fruits; Japan's barriers to apple imports; Japan's and Korea's discriminatory taxes on distilled spirits; Korea's beef imports; Mexico's antidumping duties on high-fructose corn syrup; Mexico's telecommunications barriers; Mexico's antidumping duties on rice; the EU's moratorium on biotechnology products; Mexico's discriminatory soft drink tax; and the EU's non-uniform classification of LCD monitors.

USTR also works to ensure the most effective use of U.S. trade laws to complement its litigation strategy and to address problems that are outside the scope of the WTO and U.S. free trade agreements. USTR has effectively applied Section 301 of the Trade Act of 1974 to address unfair foreign government measures, "Special 301" for intellectual property rights enforcement, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 for telecommunications trade problems, and Title VII of the 1988 Act to address problems in foreign government procurement. The application of these trade law tools is described further below.

2. WTO Dispute Settlement

Enforcement successes in 2006 include rulings against the EU's moratorium on biotechnology products, Mexico's discriminatory soft drink tax, and the EU's non-uniform classification of LCD monitors.

The United States also favorably resolved several disputes after completing, initiating or threatening to initiate WTO dispute settlement procedures. For example, China removed its antidumping duties on kraft liner board, Canada rejected a countervailing duty petition on U.S. corn, the EU amended its discriminatory regime on geographical indications, and Mexico removed its antidumping duties on rice, amended its antidumping legislation and repealed its discriminatory soft drink tax.

Ongoing enforcement actions involve the EU's aircraft subsidies, China's charges on auto parts and Turkey's restrictions on rice.

The cases described in Chapter II of this report further demonstrate the importance of the dispute settlement process in opening foreign markets and securing other countries' compliance with their WTO obligations. Further information on WTO disputes to which the United States is a party is available on the USTR website (http://www.ustr.gov/enforcement/index.shtml).

3. Other Monitoring and Enforcement Activities

a. Subsidies Enforcement

The WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) establishes multilateral disciplines on subsidies. Among its various disciplines, the Subsidies Agreement provides remedies for subsidies that have adverse effects not only in the importing country's market, but also in the subsidizing government's market and in third-country markets. Prior to the Subsidies Agreement coming into effect in 1995, the U.S. countervailing duty law was the only practical mechanism for U.S. companies to address subsidized foreign competition. However, the countervailing duty law focuses exclusively on the effects of foreign subsidized competition in the United States. Although the procedures and remedies are different, the multilateral remedies of the Subsidies Agreement provide an alternative tool to address foreign subsidies that affect U.S. businesses in an increasingly global market place.

Section 281 of the Uruguay Round Agreements Act of 1994 (URAA) sets out the responsibilities of USTR and the Department of Commerce (Commerce) in enforcing the United States' rights in the WTO under the Subsidies Agreement. USTR coordinates the development and implementation of overall U.S. trade policy with respect to subsidy matters; represents the United States in the WTO, including the WTO Committee on Subsidies and Countervailing Measures; and leads the interagency team on matters of policy. The role of Commerce's Import Administration (IA) is to enforce the countervailing duty law and, in accordance with responsibilities assigned by the Congress in the URAA, to spearhead the subsidies enforcement activities of the United States with respect to the disciplines embodied in the Subsidies Agreement. The Import Administration's Subsidies Enforcement Office (SEO) is the specific office charged with carrying out these duties.

The primary mandate of the SEO is to examine subsidy complaints and concerns raised by U.S. exporting companies and to monitor foreign subsidy practices to determine whether there is reason to believe they are impeding U.S. exports to foreign markets and are inconsistent with the Subsidies Agreement. Once sufficient information about a subsidy practice has been gathered to permit it to be reliably evaluated, USTR and Commerce will confer with an interagency team to determine the most effective way to proceed. It is frequently advantageous to pursue resolution of these problems through a combination of informal and formal contacts, including, where warranted, dispute settlement action in the WTO. Remedies for violations of the Subsidies Agreement may, under certain circumstances, involve the withdrawal of a subsidy program or the elimination of the adverse effects of the program.

During this past year, USTR and IA staff have handled numerous inquiries and met with representatives of U.S. industries concerned with the subsidization of foreign competitors. These efforts continue to be importantly enhanced by IA officers stationed overseas (in China and Korea), who help gather, clarify and check the accuracy of information concerning foreign subsidy practices. State Department officials at posts where IA staff are not present have also handled such inquiries.

The SEO's electronic subsidies database continues to fulfill the goal of providing the U.S. trading community with a centralized location to obtain information about the remedies available under the Subsidies Agreement and much of the information that is needed to develop a countervailing duty case or a WTO subsidies complaint. The website (http://ia.ita.doc.gov/esel/index.html) includes information on all the foreign subsidy programs that have been investigated in U.S. countervailing duty cases since 1980, covering more than 50 countries and over 2,000 government practices. This database is frequently updated, making information on subsidy programs investigated or reviewed quickly available to the public.

b. Monitoring Foreign Antidumping and Countervailing Duty Actions

The WTO Agreement on Implementation of Article VI (Antidumping Agreement) and the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) permit WTO Members to impose antidumping or countervailing duties to offset injurious dumping or subsidization of products exported from one Member to another. The United States closely monitors antidumping and countervailing duty proceedings initiated against U.S. exporters to ensure that foreign antidumping and countervailing duty actions are administered fairly and in full compliance with the WTO Agreements.

To this end, IA tracks foreign antidumping and countervailing duty actions involving U.S. exporters and gathers information collected from U.S. embassies worldwide, enabling U.S. companies and U.S. Government agencies to monitor other Members' administration of antidumping and countervailing duty actions involving U.S. companies. Information about foreign antidumping and countervailing duty actions affecting U.S. exports is accessible to the public via IA's website at http://ia.ita.doc.gov/trcs/index.html. The stationing of IA officers to certain overseas locations, as noted above, has contributed to the Administration's efforts to monitor the application of foreign trade remedy laws with respect to U.S. exports.

Based in part on this monitoring activity, the United States mounted a successful WTO challenge of Mexico's antidumping measure on U.S. exports of rice, as well as certain changes to Mexico's foreign trade laws. Among other antidumping investigations of U.S. goods that were closely monitored in the past year are Canada's AD/CVD investigations of grain corn; Mexico's *ex officio* investigation of pork legs and shoulders/hams, and its "reinvestigation" of apples**;** and China's investigations of kraft linerboard, butanols, wear resistant overlay and several other products. Import Administration personnel have also participated in technical exchanges with the administering authorities of Australia, Egypt, the European Union, Indonesia and Pakistan to obtain a better understanding of these countries' administration of trade remedy laws and compliance with WTO obligations.

Members must notify on an ongoing basis and without delay their preliminary and final determinations to the WTO. Twice a year, WTO Members must also notify the WTO of all antidumping and countervailing duty actions they have taken during the preceding six-month period. The actions are identified in semi-annual reports submitted for discussion in meetings of the relevant WTO committees. Finally, Members are required to notify the WTO of changes in their antidumping and countervailing duty laws and regulations. These notifications are accessible through the USTR and IA website "links" to the WTO's website.

B. U.S. Trade Laws

1. Section 301

Section 301 of the Trade Act of 1974, as amended (the Trade Act), is designed to address foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements and also may be used to respond to unreasonable, unjustifiable or discriminatory foreign government practices that burden or restrict U.S. commerce. For example, Section 301 may be used to obtain increased market access for U.S. goods and services, to provide more equitable conditions for U.S. investment abroad, and to obtain more effective protection worldwide for U.S. intellectual property.

a. Operation of the Statute

The Section 301 provisions of the Trade Act provide a domestic procedure whereby interested persons may petition the USTR to investigate a foreign government policy or practice and take appropriate action. The USTR also may self-initiate an investigation. In each investigation, the USTR must seek consultations with the foreign government whose acts, policies, or practices are under investigation. If the consultations do not result in a settlement and the investigation involves a trade agreement, Section 303 of the Trade Act requires the USTR to use the dispute settlement procedures that are available under that agreement.

If the matter is not resolved by the conclusion of the investigation, Section 304 of the Trade Act requires the USTR to determine whether the practices in question deny U.S. rights under a trade agreement or whether they are unjustifiable, unreasonable, or discriminatory and burden or restrict U.S. commerce. If the practices are determined to violate a trade agreement or to be unjustifiable, the USTR must take action. If the practices are determined to be unreasonable or discriminatory and to burden or restrict U.S. commerce, the USTR must determine whether action is appropriate and, if so, what action to take. The time period for making these determinations varies according to the type of practices alleged. Investigations of alleged violations of trade agreements with dispute settlement procedures must be concluded within the earlier of 18 months after initiation or 30 days after the conclusion of dispute settlement proceedings, whereas investigations of alleged unreasonable, discriminatory, or unjustifiable practices (other than the failure to provide adequate and effective protection of intellectual property rights) must be decided within 12 months.

The range of actions that may be taken under Section 301 is broad and encompasses any action that is within the power of the President with respect to trade in goods or services, or with respect to any other area of pertinent relations with a foreign country. Specifically, the USTR may: (1) suspend trade agreement concessions; (2) impose duties or other import restrictions; (3) impose fees or restrictions on services; (4) enter into agreements with the subject country to eliminate the offending practice or to provide compensatory benefits for the United States; and/or (5) restrict service sector authorizations.

After a Section 301 investigation is concluded, the USTR is required to monitor a foreign country's implementation of any agreements entered into, or measures undertaken, to resolve a matter that was the subject of the investigation. If the foreign country fails to comply with an agreement or the USTR considers that the country fails to implement a WTO dispute panel recommendation, the USTR must determine what further action to take under Section 301.

During 2006, there were ongoing actions in the following Section 301 investigations, and USTR received one petition seeking the initiation of a new investigation.

b. Intellectual Property Laws and Practices of the Government of Ukraine

On March 12, 2001, the Trade Representative identified Ukraine as a Priority Foreign Country (PFC) under section 182 of the Trade Act (known as Special 301 – see below), and simultaneously initiated a Section 301 investigation of the intellectual property laws and practices of the Government of Ukraine. The priority foreign country identification was based on: (1) deficiencies in Ukraine's acts, policies and practices regarding the protection of intellectual property rights, including the lack of effective action enforcing intellectual property rights, as evidenced by high levels of compact disc piracy; and (2) the failure of the Government of Ukraine to enact adequate and effective intellectual property legislation addressing optical media piracy.

On August 2, 2001, the USTR determined that the acts, policies and practices of Ukraine with respect to the protection of intellectual property rights were unreasonable and burdened or restricted U.S. commerce, and were thus actionable under Section 301(b). The USTR determined that appropriate and feasible action in response included the suspension of duty-free treatment accorded to the products of Ukraine under the GSP program, effective with respect to goods entered on or after August 24, 2001. On December 11, 2001, the USTR determined that appropriate additional action included the imposition of 100 percent *ad valorem* duties on a list of 23 Ukrainian products with an annual trade value of approximately $75 million.

In August 2005, the Government of Ukraine adopted a package of important amendments to its Laser Readable Disc Law that strengthens Ukraine's licensing regime and enforcement capabilities to stem the illegal production and trade of optical media products. In response to the adoption of these amendments, the USTR terminated the 100 percent *ad valorem* duties on the list of Ukrainian products, effective August 30, 2005.

In January 2006, the United States concluded a Special 301 Out-of-Cycle Review (OCR) of Ukraine. In recognition of the Government of Ukraine's efforts to improve the enforcement and protection of intellectual property rights, the United States reinstated GSP benefits for Ukraine effective January 23, 2006, and lowered Ukraine's designation under Special 301 from PFC to Priority Watch List. Ukraine agreed to work with the U.S. Government and with the U.S. copyright industry to monitor the progress of future enforcement efforts through an Enforcement Cooperation Group. The United States will continue to monitor developments in the protection of intellectual property rights in Ukraine pursuant to Section 306 of the Trade Act of 1974.

c. EC - Measures Concerning Meat and Meat Products (Hormones)

An EC directive prohibits the import of animals and meat from animals to which certain hormones had been administered (the "hormone ban"). This measure has the effect of banning nearly all imports of beef and beef products from the United States. A WTO panel and the Appellate Body found that the hormone ban was inconsistent with the EC's WTO obligations because the ban was not based on scientific evidence, a risk assessment, or relevant international standards. Under WTO procedures, the EC was to have come into compliance with its obligations by May 13, 1999, but failed to do so. Accordingly, in May 1999 the United States requested authorization from the Dispute Settlement Body (DSB) to suspend the application to the EC, and Member States thereof, of tariff concessions and related obligations under the GATT. The EC did not contest that it had failed to comply with its WTO obligations but objected to the level of suspension proposed by the United States.

On July 12, 1999, WTO arbitrators determined that the level of nullification or impairment suffered by the United States as a result of the EC's WTO-inconsistent hormone ban was $116.8 million per year. Accordingly, on July 26, 1999, the DSB authorized the United States to suspend the application to the European Community and its Member States of tariff concessions and related obligations under the GATT covering trade up to $116.8 million per year. In a notice published in July 1999, the USTR announced that the United States was exercising this authorization by using authority under Section 301 to impose 100 percent *ad valorem* duties on a list of certain products (the "retaliation list") of certain EC Member States.

Section 306(b)(2) of the Trade Act provides that the USTR is not required to revise a retaliation list if the USTR, together with the affected United States industry, agree that it is unnecessary to revise the retaliation list. Pursuant to this provision, on October 2, 2006, the USTR issued a determination agreeing with the affected U.S. industry that it was unnecessary to revise the retaliation list. The increased duties on the products included on the retaliation list remained in place throughout 2006. Talks were held during 2006 with the aim of reaching a mutually satisfactory solution to the dispute, but no resolution was reached.

In February 2005, a WTO panel was established to consider the EC's claims that it had brought its hormone ban into compliance with the EC's WTO obligations and that the increased duties imposed by the United States were no longer covered by the DSB authorization. The WTO panel continued its work throughout 2006. (The section of this report addressing WTO dispute settlement contains further information on this matter.)

d. Petitions Filed in 2006

During 2006, USTR received one petition seeking the initiation of a new investigation under section 301. The petition alleged that the Government of China denies certain workers' rights to manufacturing workers; that this denial amounts to an "unreasonable" practice under the workers' rights provision of Section 301; and that the denial burdens or restricts U.S. commerce. The USTR determined not to initiate an investigation with respect to the petition on the basis that an investigation would not be effective in addressing the policies and practices covered in the petition.

2. Special 301

During the past year, the United States continued to vigorously implement the Special 301 program, resulting in continued improvement in the global intellectual property environment. Publication of the Special 301 lists indicates those trading partners whose intellectual property protection regimes most concern the United States, and alerts those considering trade or investment relationships with such countries that their intellectual property rights (IPR) may not be adequately protected. Pursuant to Section 182 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 and the Uruguay Round Agreements Act (enacted in 1994), USTR must identify those countries that deny adequate and effective protection for IPR or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious acts, policies or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are designated as "Priority Foreign Countries" unless they are entering into good faith negotiations or making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of IPR. USTR may identify a trading partner as a Priority Foreign Country or remove such identification whenever warranted. Priority Foreign Countries are subject to an investigation under the Section 301 provisions of the Trade Act of 1974, unless USTR determines that the investigation would be detrimental to U.S. economic interests.

In addition, USTR has created a Special 301 "Priority Watch List" and "Watch List." Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement, or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning problem areas.

Additionally, under Section 306, USTR monitors a country's compliance with bilateral intellectual property agreements that are the basis for resolving an investigation under Section 301. USTR may apply sanctions if a country fails to satisfactorily implement an agreement.

a. 2006 Special 301 Review Announcements

On April 28, 2006, U.S. Trade Representative Rob Portman announced the results of the 2006 Special 301 annual review, which examined in detail the adequacy and effectiveness of intellectual property protection in 87 countries. USTR placed 48 countries on the Priority Watch List, Watch List or the Section 306 monitoring list.

China remained a top IPR enforcement priority in 2006, and was placed on the Priority Watch List. USTR announced that it would maintain heightened scrutiny of China, step up consideration of its WTO dispute settlement options, and for the first time scrutinize IPR protection and enforcement at China's provincial level by conducting a special provincial review in the coming year. The China section of the report recognized China's efforts to address IPR problems but concluded that IPR infringements throughout China remained at unacceptable levels.

Russia also continued to be a serious concern and was placed on the Priority Watch List. The Russia section of the report noted that although Russia had taken some steps to curb pirated production of optical discs in factories, particularly those located on government-owned property, high levels of IPR infringement remained, particularly infringements connected with Russia-based optical disc plants and websites.

Countries on the Priority Watch List do not provide an adequate level of IPR protection, enforcement or market access for persons relying on intellectual property protection. In addition to China and Russia, eleven countries were placed on the Priority Watch List in 2006: Argentina, Belize, Brazil, Egypt, India, Indonesia, Israel, Lebanon, Turkey, Ukraine, and Venezuela.

Thirty-four trading partners were placed on the lower level Watch List, meriting bilateral attention to address underlying IPR problems. The Watch List countries were: the Bahamas, Belarus, Bolivia, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, the Dominican Republic, Ecuador, the European Union, Guatemala, Hungary, Italy, Jamaica, Kuwait, Latvia, Lithuania, Malaysia, Mexico, Pakistan, Peru, the Philippines, Poland, the Republic of Korea, Romania, Saudi Arabia, Taiwan, Tajikistan, Thailand, Turkmenistan, Uzbekistan and Vietnam. Paraguay remains under Section 306 monitoring.

Due to progress on intellectual property, the status of several countries in the 2006 Special 301 report improved in comparison to the 2005 report. In January 2006, Ukraine was moved from the Priority Foreign Country list to the Priority Watch List. In February, the Philippines was moved from the Priority Watch List to the Watch List. In conjunction with release of the 2006 report, USTR announced that Kuwait and Pakistan were also being moved from the Priority Watch List to the Watch List. Four countries were removed from the Watch List entirely because of improvement in intellectual property protection: Azerbaijan, Kazakhstan, the Slovak Republic and Uruguay.

The 2006 Special 301 report also announced five out-of-cycle reviews involving Canada, Chile, Indonesia, Latvia and Saudi Arabia. Out-of-cycle reviews are conducted on countries that warrant further review before the next Special 301 report and may result in changes to a country's listing. On November 6, 2006, USTR announced that Indonesia's status would be improved by moving Indonesia from the Priority Watch List to the Watch List because of improvements in its intellectual property regime. USTR will continue to work with Indonesia on further strengthening of its intellectual property system.

b. Initiatives

The 2006 Special 301 report includes a new section that highlighted progress in some countries. For example, Pakistan made notable progress by shutting down pirate optical disc factories. Ukraine implemented new legislation to combat pirate optical media production in plants, and Brazil took steps to improve IPR enforcement. In addition, Indonesia, Malaysia, the Philippines, the Republic of Korea and Taiwan have made progress with IPR protection and enforcement against retail piracy, Internet piracy and pirate optical media production.

In addition, the report sets out priorities for the coming year, such as implementation of free trade agreements and combating Internet piracy and counterfeit pharmaceuticals. The report also includes a new section that highlights notorious markets, including both on-line websites, such as allofmp3.com, and traditional marketplaces.

The 2006 Special 301 report details ongoing U.S. efforts to conclude FTAs with strong IPR chapters and to work closely with FTA partners to achieve appropriate implementation of FTA obligations in domestic law. The report reviews USTR's examination of IPR practices in connection with its implementation of trade preference programs, such as the ongoing Generalized System of Preferences (GSP) reviews of countries. In addition, USTR reported on the status of ongoing initiatives and significant developments:

- **Continuing to advance the STOP! Initiative:** USTR reported that it is actively engaged in implementing the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. As part of this effort, USTR, in coordination with other agencies, is introducing new initiatives in multilateral fora to improve the global intellectual property environment that will aid in disrupting the operations of pirates and counterfeiters.

- **Global Scope of Counterfeiting and Piracy:** USTR reported that global IPR theft and trade in fakes have grown to unprecedented levels, threatening innovative and creative economies around the world. Counterfeiting and digital piracy remained areas of particular concern in the 2006 Special 301 report.

- **Notorious Markets:** Noting that global piracy and counterfeiting thrive in part due to large marketplaces that deal in infringing goods, USTR in 2006 began to list "notorious markets" in the Special 301 Report. The list includes both virtual (online) markets and traditional physical markets. The listed markets are examples of marketplaces that have been the subject of IPR enforcement action, or that may merit further investigation for possible IPR infringements, or both.

- **Transshipment and In Transit Goods:** Transshipped and in transit goods pose a high risk for counterfeiting and piracy. USTR reported that transshipment or in transit goods are significant problems in Belize, Canada, Latvia, Lithuania, Paraguay, Ukraine and United Arab Emirates, among others.

- **Optical Media Piracy:** USTR reported that some trading partners, such as Ukraine, Brazil, Pakistan and the Philippines had taken important steps toward implementing much-needed controls on optical media production in order to address and prevent future pirate activity. However, other countries urgently need to implement controls or improve inadequate existing measures. Such countries included India, Thailand and Russia, which have not made sufficient progress in this regard.

- **Cracking down on Internet Piracy:** USTR reported that, in order to realize the enormous potential of the Internet, a growing number of countries are implementing the WIPO Internet Treaties and creating a legal environment conducive to investment and growth in Internet-related businesses and technologies. As of the end of 2006, there were 61 members of the WIPO Copyright Treaty and 59 members of the WIPO Performances and Phonograms Treaty; this number will rise significantly when the EU member States join.

- **Ensuring Government Use of Authorized Software:** In October 1998, the United States announced an Executive Order directing U.S. government agencies to maintain appropriate and effective procedures to ensure legitimate use of software. In addition, USTR was directed to undertake an initiative to work with other governments, particularly those in need of modernizing their software management systems or about which concerns have been expressed, regarding government use of illegal software. USTR reported continued progress under this initiative. Most recently, the United States welcomed the April 22, 2006 announcement by China that it will require computers to be pre-installed with licensed operating system software and government agencies to purchase only such computers.

- **Ensuring Compliance with the WTO TRIPS Agreement:** USTR reported on efforts to ensure compliance by our trading partners with the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Compliance with the TRIPS Agreement is an essential first step in providing the quality of IPR protection essential to promote growth and productivity.

- **Intellectual Property and Health Policy:** Noting the Administration's dedication to addressing the serious health problems, such as HIV/AIDS, afflicting least-developed countries in Africa and elsewhere, USTR reported on developments following the 2001 Doha Declaration on the TRIPS Agreement and Public Health.

- **Supporting Pharmaceutical Innovation:** USTR reported on its efforts to eliminate market access barriers faced by U.S. pharmaceutical companies in many countries and to both provide for affordable health care today and support the innovation that assures improved health care tomorrow.

3. Section 1377 Review of Telecommunications Agreements

Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review by March 31 of each year the operation and effectiveness of U.S. telecommunications trade agreements. The purpose of the review is to determine whether any act, policy or practice of a foreign country that has entered into a telecommunications-related agreement with the United States: (1) is not in compliance with the terms of the agreement; or (2) otherwise denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country.

The 2006 Section 1377 Review focused on the following issues: (1) high fixed-to-mobile termination rates, a factor identified as negatively impacting U.S. companies in a large number of markets, in particular Germany, Japan, Mexico, Peru and Switzerland; (2) restrictions incumbent carriers in Germany, India and Singapore place on access to, and use of, leased lines and submarine cable capacity owned or controlled by the incumbent; (3) universal service-related programs in Jamaica and Japan that did not appear competitively-neutral; and (4) a range of market access barriers in Australia, China, Egypt and India relating to licensing conditions, interconnection rights and regulatory oversight of dominant domestic operators.

USTR has urged national regulators to fulfill their responsibility to address such problems and some progress occurred. Egypt took steps to ensure that a requesting foreign carrier could interconnect its network with the state-owned carrier, but has yet to resolve other licensing issues for new entrants. Japan has licensed new mobile carriers, which may be a catalyst for more competitive termination rates. Mexico's regulator issued a ruling intended to bring mobile termination rates to more reasonable levels, but Mexico's mobile carriers have so far been successful in using judicial procedures to prevent application of these rules. India continues to try to address licensing conditions for foreign carriers. China pledged to reduce capitalization requirements to reasonable levels, but implementation details have yet to be finalized.

4. Antidumping Actions

Under the antidumping law, duties are imposed on imported merchandise when the Department of Commerce determines that the merchandise is being dumped (sold at "less than fair value" (LTFV)) and the U.S. International Trade Commission (USITC) determines that there is material injury or threat of material injury to the domestic industry, or material retardation of the establishment of an industry, "by reason of" those imports. The antidumping law's provisions are incorporated in Title VII of the Tariff Act of 1930 and have been substantially amended by the l979, 1984, and 1988 trade acts as well as by the 1994 Uruguay Round Agreements Act.

An antidumping investigation usually starts when a U.S. industry, or an entity filing on its behalf, submits a petition alleging, with respect to certain imports, the dumping and injury elements described above. If the petition meets the applicable requirements, Commerce initiates an antidumping investigation. Commerce also may initiate an investigation on its own motion.

After initiation, the USITC decides, generally within 45 days of the filing of the petition, whether there is a "reasonable indication" of material injury or threat of material injury to a domestic industry, or material retardation of an industry's establishment, "by reason of" the LTFV imports. If this preliminary determination by the USITC is negative, the investigation is terminated; if it is affirmative, Commerce will make preliminary and final determinations concerning the alleged LTFV sales into the U.S. market. If Commerce's preliminary determination is affirmative, Commerce will direct U.S. Customs to suspend liquidation of entries and require importers to post a bond or cash deposit equal to the estimated weighted average dumping margin.

If Commerce's final determination of LTFV sales is negative, the investigation is terminated. If affirmative, the USITC makes a final injury determination. If the USITC determines that there is material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the LTFV imports, an antidumping order is issued. If the USITC's final injury determination is negative, the investigation is terminated and the Customs deposits are released.

Upon request of an interested party, Commerce conducts annual reviews of dumping margins pursuant to Section 751 of the Tariff Act of 1930. Section 751 also provides for Commerce and USITC review in cases of changed circumstances and periodic review in conformity with the five-year "sunset" provisions of the U.S. antidumping law and the WTO Antidumping Agreement.

Most antidumping determinations may be appealed to the U.S. Court of International Trade, with further judicial review possible in the U.S. Court of Appeals for the Federal Circuit. For certain investigations involving Canadian or Mexican merchandise, appeals may be made to a bi-national panel established under the NAFTA.

The numbers of antidumping investigations initiated in and since 1986 are as follows: 83 in 1986; 16 in 1987; 42 in 1988; 24 in 1989; 35 in 1990; 66 in 1991; 84 in 1992; 37 in 1993; 51 in 1994; 14 in 1995; 21 in 1996; 15 in 1997; 36 in 1998; 46 in 1999; 45 in 2000; 77 in 2001; 35 in 2002; 37 in 2003; 26 in 2004; 13 in 2005; and 7 in 2006. The numbers of antidumping orders (not including suspension agreements) imposed in and since 1986 are: 26 in 1986; 53 in 1987; 12 in 1988; 24 in 1989; 14 in 1990; 19 in 1991; 16 in 1992; 42 in 1993; 16 in 1994; 23 in 1995; 9 in 1996; 11 in 1997; 9 in 1998; 19 in 1999; 20 in 2000; 31 in 2001; 27 in 2002; 16 in 2003; 14 in 2004;18 in 2005; and 5 in 2006.

5. Countervailing Duty Actions

The U.S. countervailing duty (CVD) law dates back to late 19th century legislation authorizing the imposition of CVDs on subsidized sugar imports. The current CVD provisions are contained in Title VII of the Tariff Act of 1930, as amended effective January 1, 1995, by the Uruguay Round Agreements Act. As with the antidumping law, the USITC and the Department of Commerce jointly administer the CVD law.

The CVD law's purpose is to offset certain foreign government subsidies, which benefit imports into the United States. CVD procedures under Title VII are very similar to antidumping procedures, and CVD determinations by Commerce and the USITC are subject to the same system of judicial review as are antidumping determinations. Commerce normally initiates investigations based upon a petition submitted by a representative of the interested party(ies). The USITC is responsible for investigating material injury issues. The USITC must make a preliminary finding of a reasonable indication of material injury or threat of material injury, or material retardation of an industry's establishment, by reason of the imports subject to investigation. If the USITC's preliminary determination is negative, the investigation terminates; otherwise, Commerce issues preliminary and final determinations on subsidization. If Commerce's final determination of subsidization is affirmative, the USITC proceeds with its final injury determination. If the USITC's final determination is affirmative, Commerce will issue a CVD order.

The numbers of CVD investigations initiated in and since 1986 are as follows: 28 in 1986; 8 in 1987; 17 in 1988; 7 in 1989; 7 in 1990; 11 in 1991; 22 in 1992; 5 in 1993; 7 in 1994; 2 in 1995; 1 in 1996; 6 in 1997; 11 in 1998; 10 in 1999; 7 in 2000; 18 in 2001; 3 in 2002; 5 in 2003; 3 in 2004; 2 in 2005, and 3 in 2006. The numbers of CVD orders imposed in and since 1986 are: 13 in 1986; 14 in 1987; 7 in 1988; 6 in 1989; 2 in 1990; 2 in 1991; 4 in 1992; 16 in 1993; 1 in 1994; 2 in 1995; 2 in 1996; 0 in 1997; 1 in 1998; 6 in 1999; 6 in 2000; 6 in 2001; none in 2002; 2 in 2003; 3 in 2004; none in 2005, and 2 in 2006. Under its sunset review procedures, Commerce revoked 8 and continued 22 countervailing duty orders in 2000; revoked 1 countervailing duty order and continued 5 orders in 2001; revoked no countervailing duty orders and continued no orders in 2002; revoked no countervailing duty orders and continued no orders in 2003; revoked 1 countervailing duty order and continued no orders in 2004; revoked 4 and continued 12 countervailing duty orders in 2005, and revoked 6 and continued 3 countervailing duty orders in 2006.

6. Other Import Practices

a. Section 337

Section 337 of the Tariff Act of 1930, as amended, makes it unlawful to engage in unfair acts or unfair methods of competition in the importation or sale of imported goods. Most Section 337 investigations concern alleged infringement of intellectual property rights, such as U.S. patents and trademarks.

The United States International Trade Commission (USITC or Commission) conducts Section 337 investigations through adjudicatory proceedings under the Administrative Procedure Act. The proceedings normally involve an evidentiary hearing before a USITC administrative law judge who issues an Initial Determination that is subject to review by the Commission. If the USITC finds a violation, it can order that imported infringing goods be excluded from the United States and/or issue cease and desist orders requiring firms to stop unlawful conduct in the United States, such as the sale or other distribution of imported goods in the United States. A limited exclusion order covers only certain imports from particular named sources, while a general exclusion order covers certain products from all sources. Cease and desist orders are generally directed to entities maintaining inventories of infringing goods in the United States. Many Section 337 investigations are terminated after the parties reach settlement agreements or agree to the entry of consent orders.

In cases in which the USITC finds a violation of Section 337, it must decide whether certain public interest factors nevertheless preclude the issuance of a remedial order. Such public interest considerations include an order's effect on the public health and welfare, U.S. consumers, and the production of similar U.S. products. If the USITC issues a remedial order, it transmits the order, determination, and supporting documentation to the President for policy review. In July 2005, the President assigned these policy review functions, which are set out in section 337(j)(1)(B), section 337(j)(2), and section 337(j)(4) of the Tariff Act of 1930, to the USTR. The USTR conducts these reviews in consultation with other agencies. Importation of the subject goods may continue during this review process if the importer pays a bond set by the USITC. If the President (or the USTR exercising the functions assigned by the President) does not disapprove the USITC's action within 60 days, the USITC's order becomes final. Section 337 determinations are subject to judicial review in the U.S. Court of Appeals for the Federal Circuit with possible appeal to the U.S. Supreme Court.

The USITC also is authorized to issue temporary exclusion or cease and desist orders before it completes an investigation if it determines that there is reason to believe a violation of Section 337 exists.

In 2006, the USITC instituted 34 new Section 337 investigations. It also instituted one enforcement proceeding that related to a previously issued USITC remedial order. During the year, the USITC issued one general exclusion order, six limited exclusion orders, and one cease and desist order covering imports from foreign firms, as follows: *Certain Light-Emitting Diodes and Products Containing Same*, Inv. No. 337-TA-512 (limited exclusion order); *Certain Rubber Antidegradants, Components Thereof, and Products Containing Same*, Inv. No. 337-TA-533 (limited exclusion order directed to two entities); *Certain Audio Processing Integrated Circuits and Products Containing Same*, Inv. No. 337-TA-538 (limited exclusion order); *Certain Tadalafil or Any Salt or Solvate Thereof and Products Containing Same*, 337-TA-539 (general exclusion order); *Power Supply Controllers and Products Containing Same*, Inv. No. 337-TA-541 (limited exclusion order); *Certain Ink Sticks for Solid Ink Printers*, Inv. No. 337-TA-549 (limited exclusion order and one cease and desist order); and *Certain Portable Power Stations and Packaging Thereof*, Inv. No. 337-TA-563 (limited exclusion order).

The USTR, exercising the functions assigned by the President, permitted all the exclusion orders and the cease and desist order submitted by the USITC for review during 2006 to become final.

b. Section 201

Section 201 of the Trade Act of 1974 provides a procedure whereby the President may grant temporary import relief if increased imports are a substantial cause of serious injury or the threat of serious injury. Relief may be granted for an initial period of up to four years, with the possibility of extending the relief to a maximum of eight years. Import relief is designed to redress the injury and to facilitate positive adjustment by the domestic industry; it may consist of increased tariffs, quantitative restrictions, or other forms of relief. Section 201 also authorizes the President to grant provisional relief in cases involving "critical circumstances" or certain perishable agricultural products.

For an industry to obtain relief under Section 201, the USITC must first determine that a product is being imported into the United States in such increased quantities as to be a substantial cause (a cause which is important and not less than any other cause) of serious injury, or the threat thereof, to the U.S. industry producing a like or directly competitive product. If the USITC makes an affirmative injury determination (or is equally divided on injury) and recommends a remedy to the President, the President may provide relief either in the amount recommended by the USITC or in such other amount as he finds appropriate. The criteria for import relief in Section 201 are based on Article XIX of the GATT 1994 – the so-called "escape clause" – and the WTO Agreement on Safeguards.

As of January 1, 2006, the United States had no safeguard measures in place. The United States did not impose any safeguard measures during 2006, and did not commence any safeguard investigations.

c. Section 421

The terms of China's accession to the WTO include a unique, China-specific safeguard mechanism. The mechanism allows a WTO member to limit increasing imports from China that disrupt or threaten to disrupt its market if China does not agree to take action to remedy or prevent the disruption. The mechanism applies to all industrial and agricultural goods and will be available until December 11, 2013.

Section 421 of the Trade Act of 1974, as amended by the U.S.-China Relations Act of 2000, implements this safeguard mechanism in U.S. law. For an industry to obtain relief under Section 421, the United States International Trade Commission (ITC) must first make a determination that products of China are being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of like or directly competitive products. The statute directs that if the ITC makes an affirmative determination, the President shall provide import relief, unless the President determines that provision of relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action would cause serious harm to the national security of the United States.

China's terms of accession also permit a WTO Member to limit imports where a China-specific safeguard measure imposed by another Member causes or threatens to cause significant diversions of trade into its market. The trade diversion provision is implemented in U.S. law by Section 422 of the Trade Act of 1974, as amended.

Through the end of 2005, six petitions had been filed and adjudicated under Section 421. No new petitions were filed during 2006.

On February 10, 2006, the U.S. Court of Appeals for the Federal Circuit dismissed the complaint filed against the President by Motion Systems Corporation, the petitioner in the first Section 421 investigation. The Court of Appeals held that the President has discretion in applying Section 421 and therefore judicial review is not available. The Court of Appeals also affirmed the Court of International Trade's decision that the U.S. Trade Representative could not be sued under Section 421 because the USTR's statutory role does not constitute "final agency action" and thus cannot be challenged in court. Motion Systems Corporation filed a petition for review with the Supreme Court. The Supreme Court denied the request on October 2, 2006.

d. China Textile Safeguard

The terms for China's accession to the WTO include a special textiles safeguard, which is available to WTO members until December 31, 2008. This safeguard covers all products that were subject to the WTO Agreement on Textiles and Clothing on January 1, 1995.

Paragraph 242 of the *Report on the Working Party for the Accession of China to the World Trade Organization* ("Paragraph 242") allows WTO Members that believe imports of Chinese-origin textile or apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China with a view to easing or avoiding such market disruption. Under Paragraph 242, the importing country must supply data which, in its view, show the "existence or threat" of market disruption and the role of Chinese-origin products in that disruption. On receipt of a request for consultations, China must impose specified limits on its exports of such products to the member country. If the consultations fail to yield a solution to the threat or existence of market disruption, the WTO Member may continue such limits on imports of Chinese-origin textile or apparel products for up to one year, unless such limits are reapplied.

As noted in last year's Annual Report, on November 8, 2005, China and the United States signed a broad agreement that addresses imports of certain textile and apparel products from 2006 through 2008 (the "Memorandum of Understanding Between the Governments of the United States of America and the People's Republic of China Concerning Trade in Textile and Apparel Products"). This agreement replaced the safeguard measures that had been taken by the United States under Paragraph 242, and no new measures were taken under this paragraph in 2006. At the request of USTR, the International Trade Commission issued a report in August 2006 with respect to the definition of baby socks covered by the agreement in order to facilitate the administration of the agreement.

7. Trade Adjustment Assistance

a. Overview and Assistance for Workers

The Trade Adjustment Assistance (TAA) program for workers, established under Title II, chapter 2, of the Trade Act of 1974, as amended, provides assistance for workers affected by foreign trade. Available assistance includes job retraining, trade readjustment allowances (TRA), job search assistance, relocation assistance, a health insurance tax credit, a wage supplement for older displaced workers, and other re-employment services. The program was most recently amended by the Trade Adjustment Assistance Reform Act (TAA Reform Act), which was part of the Trade Act of 2002, enacted on August 6, 2002.

The TAA Reform Act expanded the TAA program and superseded the North America Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program. The TAA Reform Act also raised the statutory cap on funds that may be allocated to the States for training from $110 million to $220 million per year. Workers covered under certifications issued pursuant to TAA or NAFTA-TAA petitions filed on or before November 3, 2002, continue to be covered under the provisions of the TAA or NAFTA-TAA program that were in effect on September 30, 2001. Amendments to the TAA program apply to petitions for adjustment assistance that were filed on or after November 4, 2002.

The TAA Reform Act expanded eligibility for the TAA program. For workers to be eligible to apply for TAA, the Secretary of Labor must certify that a significant number or proportion of the workers in a firm (or appropriate subdivision of the firm) have become totally or partially separated or threatened with such separation and: (1) increased imports contributed importantly to a decline in sales or production and to the separation or threatened separation of workers; or (2) there has been a shift in production to a country that has a free trade agreement with the United States or is a beneficiary country under the African Growth and Opportunity Act, the Andean Trade Preference Act or the Caribbean Basin Economic Recovery Act; or (3) there has been a shift in production to another country, and there has been or is likely to be an increase in imports of like or directly competitive articles; or (4) loss of business as a supplier or downstream producer for a TAA-certified firm contributed importantly to worker layoffs. The fourth basis for certification is designed to cover certain secondarily-affected workers.

The U.S. Department of Labor (DOL) administers the TAA program through the Employment and Training Administration (ETA). Workers certified as eligible to apply for adjustment assistance may apply for TAA benefits and services at the nearest local One-Stop Career Center. Local One-Stop Career Centers can be found on the Internet at www.servicelocator.org or by calling 1-877-US2-JOBS. In order to be eligible for TRA, the income support available under the program, workers must be enrolled in approved training within 8 weeks of the issuance of the DOL certification or within 16 weeks of the worker's most recent qualifying separation (whichever is later). A 45-day extension is available under extenuating circumstances. A state may waive the training requirement under six specific conditions outlined in the law.

The TAA Reform Act created the Health Coverage Tax Credit (HCTC) for certain trade-impacted workers and others. Covered individuals may be eligible to receive a tax credit equal to 65 percent of the amount they paid for qualifying health insurance coverage. The tax credit may be claimed at the end of the year, or a qualified individual may receive the credit in the form of monthly advance payments made directly to the health insurance provider.

In addition, the TAA Reform Act of 2002 created the Alternative Trade Adjustment Assistance (ATAA) for Older Workers program. This program was implemented on August 6, 2003, and provides qualified trade-impacted workers, who are over 50 years of age and find other work within 26 weeks of separation, with a wage supplement of up to half the difference between their old and new salaries, in lieu of retraining. The maximum amount payable is $10,000 over a two-year period, and workers must earn less than $50,000 per year in their new employment to qualify for the program.

Since implementation of the TAA Reform Act, DOL has implemented significant administrative reforms to improve program efficiency and the quality of services delivered to workers, including a reengineered petition process, certification of workers who produce intangible articles, inclusion of leased or contract workers in certifications, distribution of TAA training funds by formula, institutionalization of quarterly performance reporting requirements, and integration of services with WIA and the One-Stop system. The administrative reforms have led to a reduction in the average petition processing time from 96 days in Fiscal Year 2002 to 31 days in Fiscal Year 2006, increased ability of workers to access program benefits and services, improved fiscal management, and better program outcomes.

Three separate Notices of Proposed Rulemaking (NPRM), implementing provisions of the TAA Reform Act, have been prepared by DOL. The first NPRM was published in the *Federal Register* on August 25, 2006. It contains the provisions related to benefits for trade-certified individuals and state administration of the TAA program. The second NPRM was published in the *Federal Register* on October 18, 2006. It regulates the administration of the ATAA program. Public comments have been received on both of these NPRMs. DOL expects the final rules for both of these NPRMs to be published in spring 2007. A third NPRM, which will implement the group certification provisions under the Reform Act, is expected to be published in 2007.

In 2006, DOL issued 1,426 certifications for TAA, covering an estimated 120,199 workers. Around 60 percent of all TAA petitioners were certified as eligible to apply for program benefits and services. Over 80,000 workers participated in a TAA training program in 2006, with 72 percent of program exiters reported as entering employment in the first quarter after leaving the program. The number of workers certified as eligible for the program has remained steady for the past two years, but has declined since it peaked in 2002 with an estimated 235,000 workers certified.

b. Assistance for Farmers

The Trade Act of 2002 also contains a provision for Trade Adjustment Assistance for Farmers, with an appropriation of not more than $90 million for each fiscal year between 2003 and 2007 to be administered by the U.S. Department of Agriculture. The Secretary of Agriculture delegated authority for this program to the Administrator of the Foreign Agricultural Service.

The regulation to implement Trade Adjustment Assistance for Farmers was published in the *Federal Register* on August 20, 2003, and is now codified at 7 C.F.R. § 1580. Primary requirements for a farmer to be eligible are that the price of the basic agricultural commodity produced by the farmer in the most recent year is less than 80 percent of the average price over the previous five years, and that imports contributed importantly to the price decline.

If a group of farmers is certified as eligible for benefits, individual producers can then apply to the Farm Service Agency for technical assistance and/or cash benefits. A producer must receive technical assistance to become eligible for cash benefits. Cash benefits are subject to certain personal and farm income limits, and cannot exceed $10,000 per year to an individual producer. The cash benefit per unit is one-half of the difference between the most recent year's price and the previous five-year average price. If the funding authorized by Congress is insufficient to pay 100 percent of all claims during the fiscal year, payments will be prorated.

c. Assistance for Firms and Industries

The Trade Adjustment Assistance for Firms Program (the "TAA Program") is authorized by Title II, Chapter 3 of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*) (the "Trade Act"). The TAA Program provides technical assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace. To be certified for the TAA program, a firm must show that an increase in imports of like or directly competitive articles contributed to an important part of its decline in sales, production, or both, and to the separation or threat of separation of a significant portion of the firm's workers. The Secretary of Commerce is responsible for administering the TAA Program and has delegated the statutory authority and responsibility under the Trade Act to the Department of Commerce's Economic Development Administration (EDA). EDA regulations implementing the TAA Program are codified at 13 CFR Part 315 and may be accessed via EDA's Internet website at: http://www.eda.gov/InvestmentsGrants/Lawsreg.xml

In Fiscal Year (FY) 2006, EDA awarded a total of $12,814,214 in TAA Program funds to its national network of 11 Trade Adjustment Assistance Centers (TAACs), each assigned a different geographic service area. TAACs are typically sponsored by universities or non-profit organizations and serve as the primary point of contact for firms as they proceed through the certification and adjustment proposal processes under the TAA Program. During FY 2006, EDA certified 171 petitions for eligibility and approved 137 adjustment proposals.

Additional information on the TAA Program (including eligibility criteria and application process) is available at http://www.taacenters.org.

8. Generalized System of Preferences

a. Overview

The U.S. Generalized System of Preferences (GSP), a program designed to promote economic growth in the developing world, provides preferential duty-free treatment for 3,400 products from 134 designated beneficiary countries and territories. The GSP program was instituted on January 1, 1976, and authorized under the Trade Act of 1974 (19 U.S.C. 2461 et seq.) for a ten-year period. The GSP Program has been renewed periodically since then, most recently in 2006, when President Bush signed legislation that reauthorized the GSP program through the end of 2008.

In 1996, an additional 1,400 articles were made eligible for duty-free treatment when supplied by least developed beneficiary developing countries (LDBDCs). There are 43 LDBDCs currently eligible for GSP benefits. LDBDCs are designated as such, pursuant to section 502(a) (2) of the Trade Act of 1974, as amended. In practice, they are typically GSP beneficiaries that are on the United Nations list of least developed countries.

The combined lists of GSP-eligible products include most dutiable manufactures and semi-manufactures, and selected agricultural, fishery and primary industrial products not otherwise duty-free. Top U.S. imports under GSP in 2006 were petroleum (which is eligible for GSP duty-free treatment only from LDBDCs), jewelry, aluminum alloy products, refined copper cathodes, methanol, polyethylene terephthalate (PET), and wiring harnesses for vehicles. Certain articles are prohibited by law (19 U.S.C.

2463) from receiving GSP treatment, including most non-silk textiles and apparel, watches, footwear, handbags, luggage, flat goods, work gloves and other leather apparel.

Several beneficiary developing countries (BDCs) and LDBDCs have been removed from GSP-beneficiary eligibility. This has occurred when certain countries have been newly designated by the World Bank as a "high income" country or when the interagency review of country practice petitions, submitted as part of GSP Annual Reviews, indicated that the beneficiary did not meet GSP statutory eligibility criteria such as those regarding protection of worker rights or intellectual property rights.

b. Purpose of the GSP Program

The underlying principle of the GSP program is that the creation of trade opportunities for developing countries is an effective way of encouraging broad-based economic development and a key means of sustaining the momentum of economic reform and liberalization. In its current form, the GSP program is designed to integrate developing countries into the international trading system in a manner commensurate with their development. The program achieves this objective by making it easier for exporters from developing economies to compete in the U.S. market with exporters from industrialized nations while, at the same time, excluding from GSP duty-free treatment those products determined by the President to be import-sensitive. The value of U.S. imports entering under the GSP program in 2006 was approximately $32.6 billion, a 22 percent increase over the same period in 2005.

In addition, the GSP program encourages beneficiaries to: (1) eliminate or reduce significant barriers to trade in goods, services, and investment; (2) afford all workers internationally recognized worker rights; and (3) provide adequate and effective means for foreign nationals to secure, exercise, and enforce property rights, including intellectual property rights.

c. Annual Reviews

An important attribute of the GSP program is its ability to adapt, product by product, to shifting market conditions; to the changing needs of producers, workers, exporters, importers and consumers; and to concerns about individual beneficiaries' continued conformity with the statutory criteria for eligibility in the U.S. GSP program. Modifications are made in the lists of articles eligible for duty-free treatment and countries eligible to be in the GSP program by means of an annual review. The process begins with publication of a *Federal Register* notice that requests submission of petitions for modifications in the list of eligible articles and beneficiary countries.

For those petitions that are accepted, public hearings are held, a U.S. International Trade Commission study of the "probable economic impact" of granting a petition affecting the list of articles eligible for duty-free treatment is prepared, and all relevant materials are reviewed by the interagency Trade Policy Staff Committee (TPSC). Following completion of this interagency review, the President announces his decision on which petitions are granted.

d. Conclusion of the 2005 GSP Annual Review

In Proclamation 8033 of June 30, 2006, the President announced the results of the 2005 Annual Review. The Proclamation modified the duty-free treatment of certain GSP-eligible products and certain beneficiary developing countries under the Generalized System of Preferences.

e. 2006 GSP Annual Review

On June 29, 2006, a notice was published in the *Federal Register* announcing that USTR would receive petitions to modify the list of products eligible for duty-free treatment under the GSP program, and to modify the GSP status of certain beneficiary developing countries because of country practices. This notice initiated the 2006 Annual Review.

A *Federal Register* notice was subsequently published that announced a request for comments on the possible withdrawal or suspension of GSP benefits with respect to Romania and Bulgaria. Other *Federal Register* notices were also published that informed the public of the availability of import statistics relating to competitive need limitations (CNLs) and inviting submission of petitions for waivers to competitive need limitations for the 2006 Annual Review.

f. Designation of Beneficiary Developing Countries

On December 29, 2005, a notice was published in the *Federal Register* announcing a review, including the solicitation of public comments, to consider the designation of Liberia as a LDBDC. In Proclamation 7922 of February 22, 2006, the President designated Liberia as a LDBDC.

On August 1, 2006, a notice was published in the *Federal Register* announcing a review, including the solicitation of public comments, to consider the designation of East Timor as a LDBDC for purposes of the GSP. In Proclamation 8098 of December 29, 2006, the President designated East Timor as a LDBDC. Additionally, the President determined that Bulgaria and Romania may no longer be designated as beneficiary developing countries for purposes of the GSP, effective for each of these countries when it becomes a European Union Member State, and determined that Afghanistan should be designated as a member of the South Asian Association for Regional Cooperation (SAARC) for purposes of the GSP on the date that Afghanistan becomes a SAARC member. Bulgaria and Romania became European Union Member States on January 1, 2007.

g. Overall Review of the GSP Program

In connection with the potential expiration of the GSP program on December 31, 2006, and Congressional consideration of options for reauthorization, on October 6, 2005, a notice was published in the *Federal Register* requesting comments on whether the Administration's operation of the GSP program should be changed so that benefits are not focused on trade from a few countries, and so that developing countries that traditionally have not been major traders under the program receive benefits. The notice also invited comments on the period for which Congress should reauthorize the GSP Program.

Based on the information obtained, the TPSC initiated a further review and requested additional comments to determine whether major beneficiaries of the program have expanded exports or have progressed in their economic development within the meaning of the statute to the extent that their eligibility should be limited, suspended or withdrawn, pursuant to section 502(d) of the Trade Act of 1974 (19 U.S.C. 2462(d)). The TPSC also initiated a review of the 83 existing competitive need limitation (CNL) waivers and requested comments on whether any waivers should be terminated, pursuant to section 503(d)(5) of the Act (19 U.S.C. 2463(d)(5)), because they are no longer warranted due to changed circumstances. Over 800 comments were received as part of second phase of the Overall Review, which is ongoing.

h. Reauthorization of the GSP Program

On December 20, 2006, President Bush signed legislation continuing the GSP program through December 31, 2008. This was the first time since the GSP program was created in 1974 that Congress has extended it without a lapse. This legislation reauthorized the program for all current beneficiaries and included new statutory thresholds to identify products that have reached a level of competitiveness suggesting that they no longer warrant duty-free benefits.

USTR expects to issue a *Federal Register* notice in late February 2007, when full-year 2006 data are available, that will identify those waivers that meet the new thresholds established in the reauthorization legislation and are thus subject to potential revocation.