

2021 Trade Enforcement Priorities Report



Office of the United States Trade Representative

FOREWORD

In accordance with section 601 of the Trade Facilitation and Enforcement Act of 2015 (section 310 of the Trade Act of 1974), the U.S. Trade Representative reports to the Committee on Finance of the U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives on acts, policies, or practices of foreign governments identified as trade enforcement priorities based on the consultations with those committees and the criteria set forth in paragraph (2) of section 310(a). The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report and gratefully acknowledges the contributions of USTR staff to the writing and production of this report.

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TABLE OF CONTENTS

FOREWORD	i
TABLE OF CONTENTS	ii
USTR ENFORCEMENT PRIORITIES	1
Executive Summary	1
Enforcement of U.S. Rights Under the United States-Mexico-Canada Agreement	3
Labor Monitoring and Enforcement Under the USMCA	3
Facility-Specific Rapid Response Labor Mechanism Matters & Petitions	3
Monitoring of Mexican Labor Reforms	4
Environment Monitoring and Enforcement Under USMCA	5
Work of the Interagency Environment Committee for Monitoring and Enforcement	5
Environment Attachés and Other Staffing Increases	7
U.S.-Mexico Environment Cooperation and Customs Verification Agreement	8
Dispute Settlement Related to Other USMCA Commitments	8
Section 301 Investigations	9
China’s Forced Technology Transfer	9
Vietnam’s Acts, Policies, and Practices Related to Currency Valuation	11
Vietnam’s Acts, Policies, and Practices Related to the Import and Use of Illegal Timber	12
Digital Services Taxes	13
Defense of U.S. Trade Remedies Laws	14
Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions	21
WTO Dispute Settlement Actions and Continued Enforcement Against Traditional Trade Barriers	22
Defense Against Other WTO Challenges	26
Enforcement Supports Strategic Interests of the United States	30

USTR ENFORCEMENT PRIORITIES

Executive Summary

USTR is committed to strong trade enforcement of U.S. law and international agreements, in order to promote the interests of U.S. workers and innovators, manufacturers, farmers, ranchers, fishers, and underserved communities. Trade enforcement encompasses a broad range of activities including facility-specific rapid response labor mechanism actions under the United States-Mexico-Canada Agreement (USMCA), state-to-state dispute settlement, and section 301 investigations and actions. Trade enforcement also includes the monitoring of trade agreements. Finally, trade enforcement can focus on engagement in multilateral fora such as the committees of the World Trade Organization and direct engagement with trading partners on key trade barriers.

USTR's enforcement actions are critical to advancing the President's worker-centered trade policy and ensuring that foreign policy and trade work for the middle class. This report highlights USTR's continuing commitment to enforcement and presents USTR's 2021 trade enforcement priorities:

- ***Enforcement of the United States-Mexico-Canada Agreement (USMCA).*** Enforcement of the USMCA is essential to ensuring that Canada and Mexico fully implement the agreement and live up to their commitments. Our enforcement actions also ensure that the agreement benefits American workers, manufacturers, farmers, businesses, families, and communities. For example, on July 8, 2021, USTR announced agreement with Mexico for a comprehensive remediation plan to address a denial of workers' right of free association and collective bargaining that Mexico found to have occurred for workers at a facility in Silao, Mexico. The United States has also taken broad and strategic measures that advance USMCA environment chapter monitoring and enforcement. These measures include actions related to wild-capture shrimp fisheries in Mexico adversely affecting sea turtles; efforts to curb illegal fishing in the Gulf of Mexico; and efforts to reduce vessel strikes and entanglements of North Atlantic right whales. Finally, USTR also requested and established a dispute settlement panel, the first under USMCA, to review the dairy tariff-rate quotas adopted by Canada.
- ***Enforcement under Section 301.*** USTR has been engaged in several section 301 investigations focused on: enforcing U.S. WTO rights in the large civil aircraft (LCA) disputes; addressing China's forced technology transfer practices, concerns about Vietnam's unreasonable currency practices and import and use of illegal timber; and responding to unreasonable and discriminatory digital services taxes adopted in seven jurisdictions.
- ***Defense of U.S. Trade Remedies.*** USTR will continue to provide a stalwart defense of U.S. trade remedies, including China's numerous challenges to U.S. antidumping, anti-subsidy, and safeguard actions that are intended to counteract China's non-market

economic distortions, as well as Canada's challenges to U.S. antidumping and anti-subsidy actions on softwood lumber.

- ***Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions.*** The United States will work with Director-General Ngozi Okonjo-Iweala and like-minded trading partners to implement necessary reforms to the WTO's substantive rules and procedures to address the challenges facing the global trading system. The United States will engage constructively with WTO Members on fundamental reform of the WTO's dispute settlement system – including Appellate Body overreaching that has advantaged China and helped shield its non-market distortions that hurt our workers and businesses. The United States also believes that the dispute settlement system can and should better support the WTO's negotiating and monitoring functions. USTR will also work to pursue U.S. interests in dispute settlement actions. For example, on June 15, 2021, the United States reached an understanding with the EU on a cooperative framework related to the long-standing Large Civil Aircraft (LCA) disputes that would suspend tariffs for five years, ensure that future government financing is on market terms, and provide for joint, concrete action to confront the emerging threat from China's and other non-market practices in this sector. On June 17, 2021, the United States reached a similar understanding with the United Kingdom.
- ***Enforcement Supports Strategic Interests of the United States.*** USTR will prioritize enforcement efforts with respect to key strategic priorities of the United States, including those identified under Executive Order 14017, America's Supply Chains, pandemic response and readiness and post-pandemic economic recovery. It will also continue to pursue enforcement with respect to key countries where intellectual property (IP) protection and enforcement has deteriorated or remained at unacceptable levels and where market access for Americans who rely on IP protection has been unfairly compromised. To ensure U.S. workers, manufactures and businesses can compete on a level playing field, USTR will continue to address unjustified barriers stemming from technical regulations, standards, and conformity assessment procedures (standards-related measures) that discriminate against U.S. exports or do not otherwise comply with international commitments.

The priorities identified in this report reflect key areas of enforcement focus by USTR. The report does not attempt to catalog all trade enforcement priorities on which USTR is actively working. An inventory of the trade barriers on which USTR and other agencies are currently working is contained in the [2021 National Trade Estimate Report on Foreign Trade Barriers](#), and other enforcement-related priorities and objectives are discussed in the [2021 Trade Policy Agenda and 2020 Annual Report of the President of the United States on the Trade Agreements Program](#). These reports are available on the USTR website at www.ustr.gov.

Enforcement of U.S. Rights Under the United States-Mexico-Canada Agreement

On July 1, 2020, the United States-Mexico-Canada Agreement (USMCA) came into effect, containing significant improvements to worker protections, expanded market access, and improved dispute settlement procedures. The Administration will not hesitate to bring enforcement actions against trading partners that fail to respect and protect the rights of workers, discriminate against American businesses or deny our producers market access.

Labor Monitoring and Enforcement Under the USMCA

USTR is committed to putting workers at the center of trade policy by using USMCA to help protect workers' rights, and has pursued actions under USMCA's Facility-Specific Rapid Response Labor Mechanism (RRM). Additionally, USTR, working with the Department of Labor as co-chairs of the Interagency Labor Committee for Monitoring and Enforcement (ILC), closely monitors implementation of Mexico's labor law reform, and follows up on tips from the web-based hotline, which are intended to receive confidential information regarding labor issues directly from interested parties, including Mexican workers.

Facility-Specific Rapid Response Labor Mechanism Matters & Petitions

The USMCA contains a new, first-of-its-kind RRM that enables expedited enforcement of collective bargaining rights in Mexico at particular facilities. The United States has already pursued action under the USMCA's RRM twice.

Review and Remediation of Worker's Rights Denial at Auto Manufacturing Facility in Silao, Mexico

On May 12, 2021, USTR submitted a request to Mexico to review whether workers at a General Motors facility in Silao, State of Guanajuato, Mexico, are being denied the right of free association and collective bargaining in connection with an April 2021 worker vote on whether to approve their collective bargaining agreement. USTR took this action after becoming aware of information indicating serious violations of workers' rights. This action was self-initiated. In connection with the request, USTR directed the suspension of liquidation for unliquidated entries of goods from General Motors' Silao facility. On May 14, 2021, Mexico accepted the request for review. Mexico conducted a review in response to the request, and on June 25, 2021, commenced discussions on a remediation plan.

On July 8, 2021, the United States and Mexico announced a course of remediation which seeks to provide the workers of the General Motors facility in Silao, Mexico with the ability to vote on whether to approve (legitimize) their collective bargaining agreement in free and democratic conditions, and to remediate the denial of the right of free association and collective bargaining to workers at the facility.

As part of the course of remediation, Mexico will, among other items:

- ensure that a new legitimization vote is held at the facility by August 20, 2021;

- have federal inspectors from the Secretariat of Labor and Social Welfare (STPS) present at the facility to prevent and address any intimidation and coercion occurring;
- permit, at and before the new legitimization vote, a robust presence of impartial international observers from the International Labor Organization to be at the facility, and permit domestic observers from a Mexican autonomous institution to be at the vote;
- distribute accurate workers' rights information at the facility;
- investigate and, as appropriate, sanction anyone responsible for the conduct that led to the suspension of the April vote and any other violation of law related to that vote that occurred before the vote, at the vote, after the vote, or in connection with the August vote; and,
- monitor an email address and create and staff a hotline phone number with STPS officials to receive and respond to complaints from workers about the voting process.

Review of Alleged Freedom of Association Violations at Mexican Automotive Parts Factory

On May 10, 2021, the Interagency Labor Committee for Monitoring and Enforcement (ILC) received a RRM petition from the AFL-CIO and other groups. The petition alleged that workers at the Tridonex automotive parts facility in Matamoros, State of Tamaulipas, are being denied the right of free association and collective bargaining. The ILC determined, in response to the petition, that there was sufficient credible evidence of a denial of rights enabling the good faith invocation of enforcement mechanisms. As a result, on June 9, 2021, USTR submitted a request that Mexico review whether workers at the Tridonex facility are being denied the right of free association and collective bargaining. On June 19, 2021, Mexico accepted the request for review. The USMCA provides Mexico a 45-day period for its review (*i.e.*, until July 24, 2021).

Monitoring of Mexican Labor Reforms

USTR will continue to monitor closely Mexico's implementation and enforcement of its new labor legislation to ensure that Mexico meets its obligations under the USMCA. Among other matters, USTR is monitoring:

- The process under which previously negotiated collective bargaining agreements are voted on by workers in Mexico. As USTR's actions concerning the General Motors facility in Silao demonstrate, USTR will take appropriate action to ensure that workers can exercise the right of free association and collective bargaining throughout this process.
- Allegations of violence against workers and labor organizations. USTR understands that workers and labor organizations must be able to exercise their labor rights in a climate that is free from violence, threats, and intimidation and that governments must not fail to address violence or threats of violence against workers who exercise or attempt to exercise their labor rights.

- Mexico’s creation and implementation of labor courts, registration institutions and conciliation centers to ensure Mexico’s compliance with USMCA obligations and timelines.
- The process by which unions amend their bylaws to incorporate requirements of secret-ballot voting and gender equity for union officer elections.

Environment Monitoring and Enforcement Under USMCA

The USMCA includes state-of-the-art provisions, including the most comprehensive set of environmental obligations of any U.S. trade agreement. The environmental commitments of the USMCA are fully enforceable through the Agreement’s dispute settlement procedures, affirming the Parties’ recognition that a healthy environment is an integral element of sustainable development and of a robust liberalized trading relationship. USTR is fully committed to effective monitoring and enforcement of the environmental obligations of the USMCA.

Since entry into force, the United States has taken broad and strategic measures that advance USMCA environment chapter monitoring and enforcement. These measures include actions related to wild-capture shrimp fisheries in Mexico adversely affecting sea turtles; efforts to curb illegal fishing in the Gulf of Mexico; and efforts to reduce vessel strikes and entanglements of North Atlantic right whales. Additionally, the United States has bolstered the intelligence, investigative, and enforcement capacity of key agencies to combat wildlife trafficking and illegal logging and associated trade, including additional prosecutorial resources to focus on environmental crimes and increased investigative and inspection capacity, including on the Southwest border. Further, the United States has made progress in its efforts to enforce USMCA provisions related to, *inter alia*, preventing and reducing marine litter; improving and promoting the conservation of priority marine species; and promoting sustainable forest management and the legal trade in timber, including through improved wood identification.

Work of the Interagency Environment Committee for Monitoring and Enforcement

USTR chairs the USMCA Interagency Environment Committee for Monitoring and Enforcement (“IECME”), which was established by Executive Order 13907, dated February 28, 2020, 85 Fed. Reg. 12977. Since its creation, the IECME has served a central role in ensuring a whole-of-government approach to monitoring and enforcement of USMCA environmental obligations. The USMCA Implementation Act also provides that the IECME may request the Trade Representative to request consultations¹ with respect to a USMCA Party or request heads of Federal agencies to initiate monitoring or enforcement actions under specified domestic statutes² with regard to USMCA environmental obligations.

¹ See USMCA, Articles 24.29, 31.4, and 31.6.

² See the USMCA Implementation Act, section 814(2).

Since USMCA entry into force, USTR has convened the IECME, or its informal subsidiary body and working groups, two or more times per month to ensure effective coordination and execution of monitoring and enforcement activities. Pursuant to its mandate, the IECME has regularly reviewed information concerning Mexico or Canada and has analyzed that information in light of their USMCA environmental obligations. This information has come from various sources, including through public submissions directly to the IECME and from the Commission for Environmental Cooperation (“CEC”) Submissions on Enforcement Matters (“SEM”) process, which was originally established under the former North American Agreement on Environmental Cooperation and is currently operating pursuant to the Environmental Cooperation Agreement and the USMCA environment chapter.

Public Participation and Submissions

The USMCA’s environment chapter provides for enhanced public participation and allows persons of any USMCA Party to file a submission with the trilateral CEC Secretariat asserting that a Party is failing to effectively enforce its environmental laws. Separate from, and parallel to the CEC submissions process, persons of a Party may submit information regarding a Party’s implementation of the environment chapter directly to USTR, as the IECME Chair. Through its website, USTR has provided for direct public engagement and inquiries regarding USMCA Chapter 24 implementation, establishing a dedicated email address to receive such submissions.

Since entry into force, two public submissions have been filed with the CEC Secretariat and one with USTR as chair of the IECME. The Center for Biological Diversity and the Centro Mexicano de Derecho Ambiental filed the Loggerhead Sea Turtle submission (SEM 20-001) with the CEC Secretariat on December 17, 2020, and directly with USTR on January 13, 2021. The submission asserts that the Government of Mexico is failing to enforce domestic laws and international commitments to limit bycatch of the loggerhead sea turtle.

An anonymous submitter filed the Fairview Terminal submission (SEM-21-001) with the CEC Secretariat on February 9, 2021. This submission asserts that the Government of Canada is failing to enforce its domestic environmental impact assessment laws and procedures, particularly those related to mitigating noise, vibration, and air emissions from the Fairview Terminal Phase II Expansion Project, a rail and port expansion project.

The IECME continues to collect and analyze information related to the issues raised in the submissions, including whether there is sufficient evidence to support a claim that Mexico or Canada is in breach of its environmental obligations under Chapter 24 the USMCA. Further, the IECME continues to monitor SEM 20-001 and SEM-21-001 as they go through the CEC-SEM process.³

³ The IECME also reviewed five other SEMs that were filed before USMCA entry into force, including one factual record. Those SEMs were Radiation Exposure in Los Altares (SEM-19-001), Metrobus Reforma (SEM-18-002), Hydraulic Fracturing in Nuevo Leon (SEM-18-003), City Park Project (SEM-19-002), and Alberta Tailings Ponds II (SEM-17-001).

In addition to providing the public an opportunity to submit information directly to the IECME, USTR provides quarterly updates on USMCA implementation to its cleared advisors through the Trade and Environment Policy Advisory Committee. The United States also sought public input and participation, through a *Federal Register* notice,⁴ for the first USMCA Environment Committee meeting and associated public session, which was held on June 17, 2021.

USMCA Environment Annual Report

Pursuant to section 816 of the USMCA Implementation Act, USTR prepared its annual report in consultation with the heads of IECME members agencies. This report discusses the implementation of subtitles A and B of title VIII of the Act, summarizes efforts of Canada and Mexico to implement Chapter 24 of USMCA since entry into force of the USMCA on July 1, 2020, and describes additional efforts to be taken with respect to implementation of Canada's and Mexico's environmental obligations.

USTR, together with the other members of the IECME, identified five priority areas that USTR and the IECME will continue to actively monitor, including: (1) protection and conservation of the vaquita (endangered porpoise) and totoaba (endangered fish) in the Gulf of California in Mexico; (2) illegal fishing in the Gulf of Mexico; (3) sea turtle bycatch in Mexico; (4) the Maya Train project in Mexico, (5) coal mining effluent in Canada, and (6) oil sands extraction in Canada. USTR's monitoring and enforcement activities will also extend to issues outside of these priority areas.

The IECME, together with the USMCA Implementation Act, has strengthened the United States' whole-of-government coordination of monitoring and enforcement of Mexico's and Canada's implementation of their USMCA environmental obligations. USTR is committed to using the IECME to leverage all relevant environmental and trade legal tools and policy resources together to enhance bilateral and trilateral collaboration around the USMCA environmental commitments.

Environment Attachés and Other Staffing Increases

To further enhance monitoring and enforcement actions with respect to the USMCA environmental obligations of Mexico, title VIII of the USMCA Implementation Act also provides one employee each from the Environmental Protection Agency, the Fish and Wildlife Service (FWS), and the National Oceanic and Atmospheric Administration to be detailed to USTR for posting to the U.S. Embassy in Mexico City. USTR created a USTR Office at the U.S. Embassy in Mexico City, with a Senior U.S. Trade Representative and the three environment attachés. Since the USMCA entry into force, the three environment attachés and the Senior U.S. Trade Representative have completed relocation to Mexico City. Despite COVID-related

⁴ *Notice of the First United States-Mexico-Canada Agreement Environment Committee Meeting*, 86 Fed. Reg. 27,009 (USTR May 18, 2021).

challenges, the attachés have engaged in on-the-ground monitoring of priority trade and environment issues.

USTR has hired additional staff to support the work of the IECME. USTR has already assigned two attorneys to work specifically on the USMCA Environment Chapter and is actively soliciting applications for new environment trade attorney positions.

The FWS has hired additional staff who are focused on supporting the enforcement of the Lacey Act, and USTR continues to work with U.S. Customs and Border Protection (CBP) and other relevant law enforcement agencies to identify opportunities to increase staffing or improve technology for monitoring and targeting illegal shipments between the United States and Mexico. For example, through USTR funding, CBP has hired two additional staff to focus on monitoring and enforcement of Mexico's USMCA environmental obligations. Additionally, through USTR funding, the FWS is in the process of establishing a first-of-kind mobile forensic lab that will operate along the U.S.-Mexico border. This new platform will enhance the United States' ability to quickly identify and process evidence, and will facilitate legal trade by enabling staff to more efficiently determine the legality of goods entering the United States. The FWS estimates that the platform will be operational by February 2022, and will be staffed with a new FWS forensic scientist and analyst, in addition to staff from partner U.S. Government agencies.

U.S.-Mexico Environment Cooperation and Customs Verification Agreement

The U.S.-Mexico Environment Cooperation and Customs Verification Agreement (“CVA”), negotiated alongside the USMCA and implemented under section 813 of the USMCA Implementation Act, is a separate and additional bilateral tool to facilitate cooperation between the United States and Mexico regarding specific shipments of fisheries, timber, and wildlife (including live) products. It allows parties to request information to verify whether an importer has provided accurate and adequate documentation demonstrating a shipment's legality.

In March 2021, the United States made its first request for cooperation under the CVA. Mexico responded positively to the request, and cooperation is underway between the respective customs agencies to investigate the issue and take enforcement action as appropriate.

Dispute Settlement Related to Other USMCA Commitments

Canada – Dairy TRQ Allocation Measures (CDA-USA-2021-31-01)

On December 9, 2020, the United States requested consultations with Canada pursuant to Articles 31.2 and 31.4 of the USMCA, with regard to measures of Canada through which Canada allocates its dairy tariff-rate quotas (“TRQs”) under the USMCA. The United States is challenging Canada's set-aside of a percentage of each dairy TRQ exclusively for Canadian processors. These measures undermine the ability of American dairy exporters to sell a wide range of products to Canadian consumers. The United States held consultations with Canada on December 21, 2020. The Parties failed to reach a mutually satisfactory resolution to this dispute.

Accordingly, pursuant to Article 31.6.1 of the USMCA, on May 25, 2021, the United States requested the establishment of a panel to examine this matter. The panel is expected to release a report later this year.

Section 301 Investigations

Section 301 of the Trade Act of 1974, as amended, may be used to enforce U.S. rights under bilateral and multilateral trade agreements or to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce.

China's Forced Technology Transfer

On August 18, 2017, USTR initiated an investigation into certain acts, policies, and practices of China related to technology transfer, intellectual property, and innovation. On March 22, 2018, USTR issued a detailed report and determined that the acts, policies, and practices of China under investigation are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under section 301(b).

In particular, USTR determined that China had adopted actionable policies and practices: (1) requiring or pressuring U.S. companies to transfer technology to Chinese entities through joint venture requirements and other foreign ownership restrictions, administrative reviews, and licensing procedures; (2) using its technology regulations to force U.S. companies to license their technologies on non-market terms that favor Chinese recipients; (3) generating technology transfer from U.S. companies by directing or facilitating systematic investment in, and acquisition of, these U.S. companies and assets; and (4) stealing sensitive commercial information and trade secrets of U.S. companies through unauthorized intrusions into their computer networks.

On November 20, 2018, USTR issued another detailed report, explaining that China had not fundamentally altered the policies and practices that were the subject of the March 2018 report.

With respect to the second category of acts, policies, and practices (involving technology licensing regulations), the U.S. Trade Representative decided that relevant U.S. concerns could be appropriately addressed through recourse to WTO dispute settlement. (*For further information, see China – Certain Measures Concerning the Protection of Intellectual Property Rights (DS542)*).

Lists 1 and 2

With respect to the three other categories of acts, policies, and practices listed above, the U.S. Trade Representative, at the direction of the President, determined to impose an additional duty on certain products of China. The additional duties were imposed in two tranches, following public comment and hearings. In July 2018, an additional 25 percent duty was imposed on the first tranche, known as List 1, which covered 818 tariff subheadings with an approximate annual

trade value of \$34 billion. Subsequently in August 2018, an additional 25 percent duty was imposed on the second tranche, known as List 2, which covered 279 tariff subheadings with an approximate annual trade value of \$16 billion. The U.S. Trade Representative also established processes by which stakeholders may request that particular products classified within a covered tariff subheading be excluded from the additional duties. USTR received and reviewed approximately 11,000 and 2,900 exclusion requests pertaining to Lists 1 and 2, respectively, approving approximately 3,700 and 1,100 of them.

List 3

In September 2018, the U.S. Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional duties on products of China classified under 5,733 tariff subheadings with an approximate annual trade value of \$200 billion. The rate of the additional duty on these List 3 products was initially 10 percent ad valorem and was later increased to 25 percent ad valorem in May 2019, following public comment and hearing. USTR also established an exclusion process for products of China covered under List 3. USTR received approximately 30,300 exclusion requests under List 3. USTR approved approximately 1,500 requests.

List 4

In August 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional 10 percent ad valorem duties on products of China classified under approximately 3,805 tariff subheadings with an approximate annual trade value of \$300 billion. The tariff subheadings subject to the 10 percent additional duties were separated into two lists with different effective dates: September 1, 2019 for the list in Annex A, known as List 4A, and December 15, 2019 for the list in Annex C, known as List 4B. Subsequently, at the direction of the President, the U.S. Trade Representative determined to increase the rate of the additional duties for products covered by List 4A from 10 percent to 15 percent, effective September 1, 2019. Further information is available in USTR's 2020 Annual Report.

The United States and China signed the U.S.-China Economic and Trade Agreement on January 15, 2020 (the "Phase One Agreement"), which created binding commitments to address China's technology transfer regime. The Phase One Agreement entered into force on February 14, 2020. The Technology Transfer chapter addresses some of the unfair non-market practices covered in the Section 301 investigation. In the Agreement, China commits not to coerce technology transfer. The commitment applies to both written measures and informal acts and practices of agencies and officials that may not be written into official policy. USTR is vigilantly monitoring China's progress in implementing the commitments under the Phase One Agreement.

Vietnam's Acts, Policies, and Practices Related to Currency Valuation

Policies of U.S. trading partners that result in the undervaluation of their currencies are an important area of concern. Interventions in foreign exchange (FX) market to maintain an undervalued currency make it harder for U.S.-based producers to export, and makes imports artificially cheaper. Addressing this type of problem is an important element of the Administration's worker-centered trade policy.

Vietnam has long managed its currency against the dollar, and it generally has been more willing to allow its currency to depreciate against the dollar than to allow appreciation against the dollar. On October 2, 2020, the U.S. Trade Representative initiated an investigation regarding whether Vietnam's acts, policies, and practices related to the valuation of its currency are unreasonable or discriminatory and burden or restrict United States commerce. Following initiation, USTR solicited public comment on the investigation, held a public hearing, and held consultations with the Government of Vietnam. On January 15, 2021, the U.S. Trade Representative determined that Vietnam's acts, policies, and practices related to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable and burden or restrict U.S. commerce, and thus are actionable under section 301. The U.S. Trade Representative made this determination in consultation with the Department of the Treasury, based on the information obtained during the investigation, and taking account of public comments and the advice of the Section 301 Committee and advisory committees. The determination was accompanied by a detailed public report.

USTR's actionability report analyzes the information obtained in the investigation, including the written public comments and witness testimony during the public hearing. The conduct at issue is evaluated in light of widely-accepted norms, as evidenced in international agreements and U.S. law, including that acts, policies, and practices related to currency valuation should not be undertaken to gain an unfair competitive advantage in international trade or prevent balance of payments adjustment, and that exchange rates should reflect underlying economic and financial conditions.

The report concludes that the facts and circumstances examined in the investigation, when considered in light of these norms, support a determination that Vietnam's acts, policies, and practices related to currency valuation, including excessive FX market interventions and other related actions, taken in their totality, are unreasonable under section 301. These facts and circumstances include the persistent undervaluation of Vietnam's currency over a course of several years; Vietnam's more recent, rapid, and significant purchases of FX, which have contributed to undervaluation; and the conditions surrounding Vietnam's FX market interventions including current account and goods trade surpluses (including with the United States).

The report also concludes that Vietnam's actions burden or restrict U.S. commerce under section 301. First, currency undervaluation effectively lowers the price of exported products from

Vietnam into the United States, which undermines the competitive position of U.S. firms that are competing with lower-priced Vietnamese imports. Second, currency undervaluation raises the local currency price of U.S. exports to Vietnam, which undermines U.S. firms' competitive positions in the Vietnamese market. Third, excessive FX market intervention undertaken while a country has a significant current account surplus also undermines U.S. export opportunities because, the value of Vietnam's currency would tend to appreciate in the context of a current account surplus, which would enhance domestic consumption in a manner more favorable to U.S. exports.

On July 19, 2021, USTR announced that, in light of the U.S. Department of Treasury and the State Bank of Vietnam agreement to address concerns about Vietnam's currency practices, USTR would, in coordination with Treasury, monitor Vietnam's implementation of its commitment and work with Vietnam to ensure that it addresses the acts, policies, and practices that USTR found actionable under section 301.

On July 23, 2021, USTR determined that the agreement reached between the Department of the Treasury and the State Bank of Vietnam provides a satisfactory resolution of the matter subject to investigation and that no action under Section 301 is warranted at this time. In coordination with Treasury, USTR will monitor Vietnam's implementation of its commitments under the agreement and associated measures. If USTR, in consultation with Treasury, subsequently considers that implementation is not satisfactory, USTR will consider further action under Section 301.

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

The import and use of illegally harvested or traded timber is detrimental to the environment, undermines an equitable trading system, and disadvantages workers and firms who rely on legal timber. Addressing illegal timber concerns is an important element of ensuring a level playing field for U.S. workers and firms.

Vietnam is a leading and rapidly growing producer and exporter of wood products, such as plywood and wooden furniture. The United States is Vietnam's largest export market, with 2019 imports of \$3.7 billion in wooden furniture from Vietnam alone. Vietnam relies heavily on timber imports. On October 2, 2020, the USTR initiated a section 301 investigation concerning Vietnam's acts, policies, and practices related to the alleged import and use of timber that is illegally harvested or traded (illegal timber). The investigation is examining reports that some of that imported timber may be illegal. In particular, the investigation was initiated to evaluate the following topics: (1) that Vietnamese imports of illegal timber may be inconsistent with Vietnam's domestic laws, the laws of exporting countries, or international rules; (2) evidence indicating that Vietnam at least tacitly may support the import and use of illegal timber; and (3) other acts, policies, and practices of Vietnam relating to the import and use of illegal timber.

Following initiation, USTR solicited public comment on the investigation, held a public hearing, and held consultations with the Government of Vietnam. This investigation is ongoing and is scheduled to conclude no later than October 2, 2021.

Digital Services Taxes

On July 10, 2019, USTR initiated an investigation of France's DST. France's DST imposes a three percent tax on annual revenues generated by companies providing certain digital services to, or aimed at, French users. The tax applies only to companies with annual revenues from the covered services of at least €750 million globally and €25 million in France. In December 2019, USTR released a detailed report and determined that France's DST was unreasonable or discriminatory under section 301. In January 2020, France agreed to postpone the collection of its DST. In July 2020, USTR determined to take action in the form of tariffs in this investigation and deferred imposition of the tariffs for up to six months. In January 2021, USTR determined to further suspend the action in the French investigation to allow USTR to coordinate actions in all DST investigations.

On June 2, 2020, USTR initiated investigations into DSTs adopted or under consideration in ten jurisdictions: Austria, Brazil, the Czech Republic, the European Union, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom.

In January 2021, following comprehensive investigations, USTR determined that the DSTs adopted by Austria, India, Italy, Spain, Turkey, and the United Kingdom discriminated against U.S. digital companies, were inconsistent with principles of international taxation, and burdened U.S. commerce.

In March 2021, USTR announced proposed trade actions in these six investigations, and undertook a public notice and comment process, during which it collected hundreds of public comments and held seven public hearings. At that time, USTR also terminated the remaining four investigations (of Brazil, the Czech Republic, the European Union, and Indonesia) because those jurisdictions had not implemented the DSTs under consideration.

On June 2, 2021, USTR announced tariffs on certain goods from Austria, India, Italy, Spain, Turkey, and the United Kingdom, and immediately suspended the imposition of those tariffs while multilateral negotiations on international taxation at the OECD and in the G20 continue.

The United States is focused on finding a multilateral solution to a range of key issues related to international taxation, including concerns with digital services taxes. Since July 1, 2021, the United States and 131 countries, representing more than 90% of global GDP, endorsed key components of the two pillars on the reallocation of profits of multinational enterprises and an effective global minimum tax at a rate of at least 15%. An accompanying Organisation for Economic Co-operation and Development (OECD) statement stated that the "package will provide for appropriate coordination between the application of the new international tax rules and the removal of all Digital Service Taxes and other relevant similar measures on all companies." USTR's DST investigation actions are providing time for ongoing negotiations at the OECD to continue to make progress.

Defense of U.S. Trade Remedies Laws

For decades, Congress has maintained laws designed to prevent unfair practices such as injuriously dumped or subsidized imports, or harmful surges of imports, from distorting the U.S. market. These laws represent a critical bargain between the U.S. Government and American workers, farmers, ranchers, and businesses (large and small) that underpins USTR's worker-centric trade policy. These laws reflect the core principles and legal rights of the international trading system since its founding in 1947 with the *General Agreement on Tariffs and Trade* (GATT). Article VI of the GATT, in the strongest language possible, states that injurious dumping "is to be condemned." Trade remedies are fundamental to the implementation of the WTO agreements and the prevention market distortions from unfair trade practices

Consistent with the strong textual foundation in the GATT and WTO Agreement, Title VII of the Tariff Act of 1930 authorizes the U.S. Department of Commerce (USDOC) to impose antidumping and countervailing duties on imports that are either "dumped" (sold at less than their fair value) or subsidized – if such imports cause or threaten material injury to a domestic industry. The antidumping duty (AD) and countervailing duty (CVD) laws are fully consistent with WTO obligations – and, indeed, the WTO agreements specifically provide for such laws. For decades, domestic producers could seek relief under U.S. AD or CVD laws, or both. The USDOC also has the authority to self-initiate such cases if circumstances warrant.

USTR will continue to vigorously enforce U.S. rights to impose antidumping and countervailing duties to counteract injurious dumping or subsidies and defend against actions brought by foreign governments at the WTO. Over the last ten years, a significant share of WTO challenges to U.S. actions were to U.S. trade remedies actions. Foreign governments have challenged U.S. laws and practices in addition to specific trade remedies orders related to specific products and countries.

In this context, USTR's primary objective is to defend USDOC's ability to apply appropriate antidumping and countervailing duties to combat distortions caused by China's unfair non-market economy system and government subsidies that are injuring U.S. workers and industries, as well as the unfair trade practices of other countries. The international solar, steel, and aluminum markets, for example, have experienced significant oversupply due in large part to production from excessive and uneconomic capacity in China and increasingly in other countries as well. This oversupply has caused severe market distortions, including the suppression of U.S. and global prices, and the displacement of U.S. exports in foreign markets. Trade remedies may assist U.S. workers and industry by counteracting some of the injury caused by unfairly traded imports into the United States from China and other countries. Trade remedies are, therefore, essential tools in combatting market distortions such as overcapacity.

Therefore, USTR will continue to aggressively defend all WTO and free trade agreement challenges to U.S. antidumping, anti-subsidy, and safeguard actions, including in the context of numerous ongoing disputes, such as:

United States – Measures Related to Price Comparison Methodologies (DS515)

European Union – Measures Related to Price Comparison Methodologies (DS516)

China requested consultations in December 2016, and again in November 2017, on the U.S. application of a non-market economy methodology in U.S. antidumping proceedings involving products from China. China alleges that this methodology is inconsistent with the AD Agreement and GATT 1994 and not authorized by provisions of China’s WTO Accession Protocol. China also challenges section 773(e) of the Tariff Act of 1930 – the constructed value provision that applies to market economies – to the extent that it permits the use of “surrogate values.” Consultations were held in February 2017 and January 2018.

China has not moved forward with a request for panel establishment against the United States, but pursued a parallel action against similar practices by the European Union. The United States actively participated in China’s dispute against the European Union. The United States and the European Union submitted a shared legal interpretation to the panel. Reading the text of Article VI:1 of GATT 1994, section 15 of China’s Accession Protocol, the Second Note Ad Article VI:1, GATT accession documents, and other texts indicates that GATT Contracting Parties and WTO Members have always recognized that non-market prices or costs are not suitable for antidumping comparisons because they are not appropriate to use “in determining price comparability.” On May 7, 2019, following issuance of a confidential interim report, the panel received a request from China to suspend its work in this proceeding. On June 14, 2019, the panel informed the WTO Dispute Settlement Body (DSB) of its decision to grant China’s request and suspend its work.

On June 15, 2020, the WTO Secretariat published a note indicating that the authority for the establishment of the panel in DS516 had lapsed because the panel had not been requested to resume its work.

United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India (Recourse to Article 21.5 of the DSU by India) (DS436)

In 2012, India challenged several aspects of the U.S. CVD order on carbon steel flat products from India, as well as certain U.S. laws and practices. The United States successfully defended numerous claims regarding the application of facts available, specificity, and benchmarks, as well as certain factual aspects of the U.S. International Trade Commission’s (ITC’s) injury determination, and cross-cumulation in five-year reviews; India prevailed on its challenges to public body, other benchmarks and specificity claims, several applications of facts available, and one subsection of the U.S. statute governing cross-cumulation. The reports were adopted in December 2014, and the U.S. announced compliance in April 2016. On June 5, 2017, India requested consultations under Article 21.5 of the Dispute Settlement Understanding (DSU), including with respect to findings by the USDOC in the section 129 determination regarding public body, specificity, benchmarks and new subsidies. India also challenged the ITC’s Section 129 consistency determination, raising claims concerning the ITC’s analyses of price effects, impact, and non-attribution, as well as the statute regarding cross-cumulation. Consultations

were held on July 13, 2017. The panel was established on May 25, 2018. The substantive meeting with the parties took place in January 2019.

The compliance panel rejected the majority of India's claims that the United States failed to bring its CVD determination and injury determination into compliance. The United States prevailed on eight sets of claims, including on public body, benchmarks, calculation of benefit, new subsidies, disclosure of essential facts, the "appropriateness" of exceeding a terminated domestic settlement rate, waiver of several injury claims, and all but one aspect of the injury determination. The compliance panel found in favor of India on a certain aspect of specificity and one aspect of the ITC's non-attribution analysis. The compliance panel also found that the United States' failure to amend one subsection of the cross-cumulation statute (19 U.S.C. § 1677(7)(G)(i)(III)) was inconsistent with the DSB recommendation made in the original proceedings of the dispute.

On December 18, 2019, the United States notified the DSB of its decision to appeal issues of law covered in the report of the compliance panel and legal interpretations developed by the compliance panel. Because no division of the Appellate Body could be established to hear this appeal, the United States is conferring with India to seek a positive resolution in this dispute.

United States – Countervailing Measures on Certain Pipe and Tube Products (DS523)

On March 8, 2017, Turkey requested consultations challenging U.S. CVD orders on four categories of pipe and tube products from Turkey: oil country tubular goods, welded line pipe, heavy walled rectangular welded carbon steel pipes and tubes, and circular welded carbon steel pipes and tubes. Turkey challenged the USDOC's findings regarding public body, benchmarks, specificity, and facts available, as well as the ITC's "practice" of "cross-cumulation" and its application in the underlying proceedings. On December 18, 2018, the panel found against the United States on public body, specificity, the application of facts available, and cross-cumulation in original investigations, but rejected Turkey's claims regarding benchmarks, and cross-cumulation in five-year reviews. The United States appealed the issues of public body, specificity, the application of facts available, and cross-cumulation, and Turkey cross-appealed on the issue of public body. In December 2019, the appellate division communicated its decision to suspend its work on this appeal.

United States – Countervailing Measures on Supercalendered Paper from Canada (DS505)

On March 30, 2016, Canada requested consultations with the United States related to the U.S. CVD order on supercalendered paper from Canada. Canada challenged the USDOC's initiation of the investigation, subsidy findings, specificity, and application of facts available. Canada also challenges the USDOC's "ongoing conduct" of resorting to facts available when undisclosed subsidies are discovered during verification. The panel found that certain aspects of the USDOC's determination were inconsistent with U.S. WTO obligations. The panel also found that the USDOC has engaged in "ongoing conduct" with respect to subsidies discovered during verification and that such conduct is inconsistent with U.S. WTO obligations.

In August 2018, the United States appealed the panel’s findings related to the treatment of undisclosed subsidies discovered during the course of a CVD investigation. An appellate report was issued on February 6, 2020. However, no DSB recommendations were adopted because there was no valid Appellate Body report, and there was no consensus for the DSB to adopt the report. In particular, the United States noted that one member serving on the appeal was affiliated with the government of China and therefore was not a valid member of the Appellate Body under Article 17.3 of the DSU.

On June 18, 2020, Canada requested that the DSB authorize Canada to suspend concessions. The United States objected to Canada’s request, referring the matter to arbitration under Article 22.6 of the DSU. No date has been set for the circulation of the arbitrator’s decision.

United States – Countervailing Duty Measures on Certain Products from China (Recourse to Article 21.5 by China) (DS437)

In 2012, China challenged numerous U.S. CVD investigations.⁵ China alleged that the investigations made WTO-inconsistent findings with respect to, among other things, benefit, specificity, adverse facts available, and “public bodies.” At the panel stage, the United States largely prevailed with respect to the USDOC’s calculation of benchmarks, initiation of investigations, and use of facts available; however, the Appellate Body reversed these findings. In 2016, the USDOC issued redeterminations, and China challenged the revised findings with respect to “public bodies,” benchmarks, and input specificity. The compliance panel found that the USDOC’s revised “public bodies” findings are not inconsistent with U.S. WTO obligations, but found that certain aspects of the revised benchmarks and input specificity findings are inconsistent with U.S. WTO obligations. The United States and China appealed, and an appellate report was circulated on July 16, 2019. The appellate report upheld the compliance panel report, finding that the USDOC’s revised “public bodies” findings are not inconsistent with U.S. WTO obligations and that certain aspects of the revised benchmarks and input specificity findings are inconsistent with U.S. WTO obligations.

The report included a separate opinion, which dissented from the majority on the interpretation of the term “public body” and the majority’s conclusions and analysis concerning the other issues. The dissent criticized the interpretation of the term “public body” adopted by the majority and in prior appellate reports, and articulated an interpretation under which a public body is an entity that a government can control and through which it can transfer financial value. The dissent also strongly criticized the majority for exceeding its authority by acting as a fact finder, a role that the DSU assigns exclusively to panels and not the Appellate Body, and for articulating incoherent interpretations of the WTO Agreement on Subsidies and Countervailing

⁵ China challenged preliminary and final determinations in 17 CVD investigations from 2007-2012 for products including solar panels; wind towers; thermal paper; coated paper; tow behind lawn groomers; kitchen shelving; steel sinks; citric acid; magnesia carbon bricks; pressure pipe; line pipe; seamless pipe; steel cylinders; drill pipe; oil country tubular goods; wire strand; and aluminum extrusions.

Measures (SCM Agreement) that do not accord with customary rules of interpretation of public international law.

In October 2019, China requested authorization to suspend concessions or other obligations. The United States objected, referring the matter to arbitration under Article 22.6 of the DSU. No date has been set for the circulation of the arbitrator's decision.

United States – Antidumping Measures on Oil Country Tubular Goods from Korea (DS488)

On April 18, 2014, Korea requested consultations related to antidumping duties imposed on oil country tubular goods from Korea, as well as certain U.S. laws applied in those proceedings. Korea's claims include the USDOC's rejection of third-country sales, calculation of constructed value profit, selection of mandatory respondents, as well as several procedural issues. The United States successfully defended claims regarding the rejection of third-country sales to determine normal value, the selection of mandatory respondents, the calculation of constructed export price, and numerous procedural issues; Korea prevailed on certain aspects of its challenge to the calculation of constructed value profit. The WTO adopted the panel report on January 12, 2018.

On July 29, 2019, Korea informed the DSB that it considers that the United States has failed to implement the recommendations and rulings of the DSB in this dispute and requested pursuant to Article 22.2 of the DSU authorization to suspend concessions or other obligations with respect to the United States. On August 8, 2019, the United States informed the DSB that it objected to the level of suspension of concessions and related obligations under the GATT 1994 proposed by Korea in its July 29 communication. On February 6, 2020, the United States and Korea informed the DSB that they had reached agreement on subsequent procedures, including to accept adoption and not to appeal any compliance panel report. On May 7, 2020, the United States and Korea notified the WTO Secretariat that they had agreed to suspend the Article 22.6 proceeding.

United States – Certain Methodologies and their Application to Antidumping Proceedings Involving China (DS471)

In December 2013, China challenged antidumping measures imposed by the USDOC regarding a number of Chinese products. China challenged the USDOC's application of, among other things, targeted dumping, zeroing, the "Single Rate Presumption norm," and use of adverse facts available. Before the panel, China prevailed on the majority of its claims (for example, on zeroing in certain investigations and on the rebuttable single entity presumption). In November 2016, China appealed certain of the panel's findings regarding the USDOC's "targeted dumping methodology" and the issue of adverse facts available. The Appellate Body's report was circulated on May 11, 2017. The United States prevailed on nearly every claim appealed by China. The reports were adopted on May 22, 2017. Following expiry of the reasonable period of time for implementation of the DSB's recommendations, in September 2018, China requested authorization to suspend concessions or other obligations. The United States objected to China's request, referring the matter to arbitration under Article 22.6 of the DSU. In November 2019, the

arbitrator decided that level of suspension of concessions or other obligations should be no more than \$3.579 billion annually.

United States – Countervailing Measures on Softwood Lumber from Canada (DS533)

On November 28, 2017, Canada requested consultations regarding the USDOC’s CVD determination on softwood lumber products from Canada. Canada challenges the USDOC’s benchmark and specificity determinations, the USDOC’s calculation of the benefit of subsidies, and the USDOC’s countervailing of log export restraints. The United States and Canada held consultations in January 2018. At Canada’s request, the WTO established a panel in April 2018. The panel circulated its report on August 24, 2020. The panel found that the USDOC’s determinations regarding benchmarks for stumpage, log export permitting processes, and non-stumpage programs were inconsistent with the SCM Agreement. The panel effectively applied the WTO Appellate Body’s flawed test for using out-of-country benchmarks in its analysis of benchmarks from within Canada that the USDOC used to measure the benefit of subsidies. The panel also applied a heightened level of scrutiny in its review of the USDOC’s determination, in essence putting itself in the place of the investigating authority, contrary to the terms of the SCM Agreement.

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

United States – Antidumping Measures Applying Differential Pricing Methodology to Softwood Lumber from Canada (DS534)

On November 28, 2017, Canada requested consultations regarding the USDOC’s AD determination on softwood lumber products from Canada. Canada challenges the USDOC’s use of a differential pricing analysis and zeroing in connection with the application of the alternative, weighted average-to-transaction comparison methodology provided in the second sentence of Article 2.4.2 of the AD Agreement. The United States and Canada held consultations in January 2018. At Canada’s request, the WTO established a panel in April 2018. In April 2019, the panel circulated its report, finding that the use of “zeroing” when applying a targeted dumping methodology is not inconsistent with Article 2.4.2 of the AD Agreement and that one aspect of the differential pricing methodology (the inclusion of higher-priced sales in the identified pattern) is not inconsistent with that provision. The panel also found that another aspect of the differential pricing methodology (the aggregation of sales across different categories (purchaser, region, and time period) to find one pattern) is inconsistent with Article 2.4.2. This is the sixth time a WTO panel has rejected claims that “zeroing” is inconsistent with the WTO Agreement. In June 2019, Canada nonetheless appealed the panel’s report. In December 2019, the appellate division communicated its decision to suspend its work on this appeal.

United States – Certain Systemic Trade Remedies Measures (DS535)

On December 20, 2017, Canada requested consultations concerning certain laws, regulations, and practices that Canada claims are maintained by the U.S. in its AD and CVD proceedings. The consultation request alleges claims regarding: liquidation of duties and failure to refund cash deposits in excess of WTO-inconsistent rates; retroactive collection of provisional AD and CVD

duties following preliminary affirmative critical circumstances determinations; treatment of export controls as a financial contribution in CVD proceedings; calculation of benefit in CVD proceedings involving the provision of goods for less than adequate remuneration; the USDOC's effective closure of the evidentiary record before the preliminary determination; and the ITC's tie vote provision. Consultations took place on February 6, 2018. No panel request has been made.

United States – Antidumping Measures on Fish Fillets from Vietnam (DS536)

On January 8, 2018, Vietnam requested consultations concerning antidumping duty measures pertaining to frozen fish fillets from Vietnam. The consultation request alleged claims regarding zeroing, revocation, application of adverse facts available and a government-wide entity rate, and the USDOC's determination pursuant to section 129 of the Uruguay Round Agreements Act. Consultations took place on March 1, 2018. At Vietnam's request, the WTO established a panel in July 2018. The panel held two meetings with the parties in 2019. The panel report has not been circulated.

United States – Antidumping and Countervailing Duties on Certain Products and the Use of Facts Available (DS539)

On February 14, 2018, Korea requested WTO dispute settlement consultations regarding the USDOC's use of facts available in certain antidumping and countervailing duty measures against Korea, and certain laws, regulations, and other measures maintained by the United States with respect to the use of facts available in AD and CVD proceedings. The United States and Korea held consultations in March 2018. At Korea's request, the WTO established a panel in May 2018.

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

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

United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (DS545)

On May 14, 2018, Korea requested consultations concerning the United States' application of a safeguard measure on crystalline silicon photovoltaic products. The consultation request alleged claims under the GATT 1994 and the WTO Agreement on Safeguards relating to several procedural and substantive obligations. Consultations took place in June 2018. At Korea's request, a panel was established in September 2018. Panel proceedings are ongoing.

United States – Safeguard Measure on Imports of Large Residential Washers (DS546)

On May 14, 2018, Korea requested consultations concerning the United States’ application of a safeguard measure on large residential washers. In its consultations request, Korea alleged that the United States’ safeguard action is inconsistent with the GATT 1994 and the WTO Agreement on Safeguards relating to several procedural and substantive obligations. Consultations took place in June 2018. At Korea’s request, a panel was established in September 2018, but no panel has been composed.

United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (DS562)

On August 14, 2018, China requested consultations concerning the United States’ application of a safeguard measure on crystalline silicon photovoltaic products. The consultation request alleged claims under the GATT 1994 and the WTO Agreement on Safeguards relating to several procedural and substantive obligations. Consultations took place in October 2018. At China’s request, a panel was established in August 2019. Panel proceedings are ongoing.

United States – Safeguard Measure on Solar Products (USA-CDA-2021-31-01)

On December 22, 2020, Canada requested USMCA Chapter 31 consultations with the United States regarding implementation of a safeguard measure on certain crystalline silicon photovoltaic cells (whether or not partially or fully assembled into other products) that are imported into the United States. The increased duties and tariff-rate quota pursuant to the safeguard measure apply to imports of covered products from all sources, including Canada. On December 30, 2020, Mexico requested to join the consultations under USMCA Chapter 31 as a third party. Consultations were held on January 28, 2021.

On June 21, 2021, Canada requested the establishment of a panel in this dispute. On June 25, 2021, Mexico filed a notification that it will participate as a third party in this dispute. Proceedings are ongoing.

United States – Antidumping and Countervailing Duties on Ripe Olives from Spain (DS577)

On January 29, 2019, the European Union requested consultations concerning AD and CVD measures on ripe olives from Spain. The consultation request included claims regarding specificity, subsidy pass-through analysis, the manner in which final subsidy rates were calculated, and injury. Consultations took place in March 2019. At the European Union’s request, on June 24, 2019, the WTO established a panel. Panel proceedings are ongoing.

Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions

The Administration will reengage and be a leader in international organizations, including the WTO. The United States will work with Director-General Ngozi Okonjo-Iweala and like-minded trading partners to implement necessary reforms to the WTO’s substantive rules and procedures

to address the challenges facing the global trading system. The United States will engage constructively with WTO Members on fundamental reform of the WTO's dispute settlement system; the United States believes that the dispute settlement system can and should better support the WTO's negotiating and monitoring functions. It will also work to pursue U.S. interests in dispute settlement actions.

WTO Dispute Settlement Actions and Continued Enforcement Against Traditional Trade Barriers

USTR has been actively engaged in numerous dispute settlement actions, including important offensive actions related to agricultural market access. USTR will continue to pursue actions to ensure U.S. workers and innovators, manufacturers, farmers, ranchers, fishers, and underserved communities obtain the market access they deserve, and which trading partners like China agreed to provide.

The United States recently entered into cooperative frameworks with the EU and the UK to address concerns and enhance cooperation following successful challenges to the massive subsidies to Airbus in the dispute *European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint) (Recourse to Article 21.5 of the DSU) (DS316)*. In 2012, the United States requested establishment of a compliance panel to consider whether the EU and four Member States had brought subsidies found to have caused serious prejudice to U.S. interests into compliance with WTO rules. The compliance panel in September 2016 found that the subsidies continue to cause significant lost sales of Boeing aircraft in every product market and displace or impede Boeing aircraft in every product market and in numerous geographic markets. The report further confirmed that almost \$5 billion in additional launch aid that Airbus received from EU Member States for the A350 XWB was also WTO-inconsistent. The EU appealed the compliance panel report, and in May 2018, the appellate report again confirmed that the EU and four Member States failed to comply with the earlier WTO recommendation finding launch aid for twin-aisle and very large aircraft programs inconsistent with their WTO obligations. In July 2018, the United States reactivated the arbitration for WTO authorization to impose countermeasures.

In October 2019, the WTO arbitrator found that annual countermeasures of \$7.5 billion were commensurate with the adverse effects to the United States from the EU launch aid. The award of \$7.5 billion annually is by far the largest award in WTO history—nearly twice the largest previous award. The arbitrator calculated this amount based on the WTO's non-compliance findings of significant lost sales of Boeing large civil aircraft and exports of large aircraft being impeded to the EU, Australia, China, Korea, Singapore, and United Arab Emirates markets.

On April 12, 2019, the United States initiated an investigation under section 301 of the Trade Act of 1974 to enforce U.S. rights under the WTO Agreement denied by the EU and certain Member States. In response to the EU's failure to withdraw the WTO-inconsistent subsidies or remove their adverse effects, the United States imposed additional duties of 10 percent on large civil aircraft and 25 percent on certain other products of the EU, effective October 18, 2019. USTR

subsequently reviewed and modified this tariff action in accordance with the applicable provisions under Section 306 of the Trade Act.

On March 4, 2021, the United States and United Kingdom issued a joint statement promoting resolution of the dispute, and announcing a suspension of their respective tariff actions arising from the aircraft disputes for four months, until July 4, to seek a lasting solution. The following day, the United States and the EU issued a joint statement also promoting resolution of the disputes, and announcing the suspension of their tariffs for four months, from March 11 until July 11, 2021.

On June 15, 2021, the United States reached an understanding with the EU on a cooperative framework that would suspend tariffs for five years, ensure that future government financing is on market terms, and provide for joint, concrete action to confront the emerging threat from China's and other non-market practices in this sector. On June 17, 2021, the United States reached a similar understanding with the United Kingdom. USTR proceeded to suspend for five years the tariff action in the Section 301 investigation involving the enforcement of U.S. rights in the LCA dispute.

On March 23, 2018, USTR filed a request for consultations with China, ***China – Certain Measures Concerning the Protection of Intellectual Property Rights (DS542)***. The consultation request identifies discriminatory technology licensing policies that result in unfair non-market treatment for U.S. companies and innovators trying to do business in China. For example, China appears to be breaking WTO rules by denying a foreign patent holder, including U.S. companies, its basic patent right to stop a Chinese entity from using the technology after a licensing contract ends. China also appears to be breaking WTO rules by imposing mandatory adverse contract terms that discriminate against and are less favorable for imported foreign technology. Consultations took place in July 2018, and a panel was established in November 2018. In March 2019, China revised the measures that the United States had challenged by deleting certain provisions in three measures, including the Administration of Technology Import/Export Regulations. The United States considered that China's actions had sufficiently addressed U.S. concerns, and after 12 months, the authority of the panel expired on June 8, 2021.

USTR continues to pursue two challenges to China's agricultural policies relating to grains. In ***China – Domestic Support for Agricultural Producers (DS511)***, the United States challenged China's provision of domestic support to wheat, rice, and corn producers in excess of its Aggregate Measure of Support commitments under the Agreement on Agriculture. Consultations with China were requested on September 13, 2016. In December 2016, the United States requested that the WTO establish a panel, and the panel was established in January 2017. The panel circulated its report on February 28, 2019, and agreed with the United States that China provided domestic support to its agricultural producers in 2012-2015, well in excess of its WTO commitments. Specifically, the panel found that China had provided support in excess of permitted levels for Indica (long-grain) rice, Japonica (short- and medium-grain) rice, and wheat, in every year. Each finding individually established that China breached its overall agricultural domestic support commitment for agricultural producers. Neither party appealed the report, and

the DSB adopted the report on April 26, 2019. China and the United States agreed that the reasonable period of time for China to implement the WTO's recommendations would expire on June 30, 2020. China claimed that it had implemented the WTO's recommendation, but the United States was not in a position to agree with China's claim. On July 16, 2020, the United States requested authorization from the DSB to take countermeasures under Article 22.2 of the DSU. China objected to the level of countermeasures identified in the U.S. request, referring the matter to arbitration under Article 22.6 of the DSU.

The United States also challenged China's administration of its tariff-rate quotas (TRQ) for grains in *China – Tariff Rate Quotas for Certain Agricultural Products (DS517)*. The United States considers that China's administration of its TRQs is not transparent, predictable, or fair; is not administered using clearly specified requirements or administrative procedures; inhibits the filling of the TRQs; and thus appears inconsistent with commitments in China's WTO Accession Protocol and the GATT 1994. Consultations with China were requested on December 15, 2016. In August 2017, the United States requested that the WTO establish a panel, and the panel was established in September. On April 18, 2019, the panel circulated its report, and the United States prevailed on its claims that China's TRQ administration is inconsistent with WTO rules. Neither party appealed the report, and the DSB adopted the report on May 28, 2019. China and the United States agreed that the reasonable period of time for China to implement the WTO's recommendations would expire on December 31, 2019. On February 17, 2020, China notified the DSB that as of December 31, 2019, China had fully implemented the WTO's recommendations in this matter. To allow the United States time to evaluate China's compliance measures, China and the United States mutually agreed to modify the reasonable period of time to expire on June 29, 2021. On July 15, 2021, the United States requested authorization from the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU. Also on July 15, China filed a request for the establishment of a compliance panel under Article 21.5 of the DSU.

In the dispute *Indonesia – Importation of Horticultural Products, Animals and Animal Products (DS478)*, the United States, together with New Zealand, successfully challenged Indonesia's import licensing regimes and restrictions on horticultural products, animal products (such as beef and poultry), and animals. The panel report was circulated in December 2016, and the United States prevailed on all claims. Indonesia appealed the panel report. In November 2017, the WTO upheld the original panel findings in the dispute that all 18 Indonesian measures challenged by the United States are inconsistent with Indonesia's WTO obligations and are not justified as legitimate public policy measures. Indonesia agreed that the reasonable period of time for implementation of the WTO's recommendations expired in July 2018. In August 2018, the United States requested authorization from the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU. Indonesia objected to the United States' proposed level of suspension of concessions, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. The parties continue to discuss a resolution to the U.S. concerns.

In addition to the above-mentioned disputes, USTR will continue to prioritize the elimination of traditional trade barriers imposed by foreign governments to the detriment of U.S. workers,

businesses, farmers, and other exporters. Such barriers include import licensing restrictions, non-science-based sanitary and phytosanitary measures, and other import restrictions affecting U.S. products, including food and agricultural products. Foreign governments also continue to provide both domestic and export subsidies to unfairly benefit their products and disadvantage U.S. exports. Similarly, U.S. exporters are increasingly impacted by the misuse of antidumping and countervailing duties to protect home markets. USTR also will continue to monitor and enforce foreign export restrictions and discriminatory content requirements that reduce U.S. export opportunities.

In addition to addressing these concerns through bilateral and multilateral engagement, USTR has brought numerous challenges at the WTO to combat such measures. Examples of challenges to traditional trade barriers include:

India – Measures Concerning the Importation of Certain Agricultural Products (DS430)

The United States successfully challenged India's ban on poultry and other products. In June 2015, the DSB adopted panel and Appellate Body reports finding that India's ban on poultry and other products, allegedly to protect against introduction of avian influenza, is inconsistent with WTO rules. For example, the WTO found that India's restrictions are not based on international standards or a risk assessment that takes into account available scientific evidence and are more trade restrictive than necessary. Because India had not brought its measure into compliance by the end of the reasonable period of time for implementation, in July 2016, the United States requested authorization from the DSB to impose countermeasures worth more than \$450 million; India objected to the request, referring the matter to arbitration. In April 2017, India requested a compliance panel to review whether new measures that India promulgated after the U.S. request for authorization to suspend concessions brought India into compliance. Both the countermeasures arbitration and the compliance proceeding remain pending while the United States seeks to ensure that India provides effective and timely market access for U.S. products.

India – Export Related Measures (DS541)

On March 14, 2018, the United States requested consultations with India regarding various Indian export subsidy programs. The consultation request alleges that these programs provide prohibited export subsidies inconsistent with the SCM Agreement. Consultations took place in April 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the U.S. request, in May 2018, the WTO established a panel. The panel held a hearing with the parties in February 2019 and concluded in a final report circulated on October 31, 2019, that the Indian export subsidies programs breached the SCM Agreement as prohibited export subsidies. India appealed the panel report in November 2019. Because no division of the Appellate Body could be established to hear this appeal, the United States is conferring with India to seek a positive resolution in this dispute.

Defense Against Other WTO Challenges

In addition to addressing traditional trade barriers, the United States is defending numerous WTO challenges of duties imposed to protect U.S. national security interests, and the United States has brought several challenges to retaliatory duties imposed by countries in response to those national security actions. Examples of these kinds of challenges include:

United States – Origin Marking Requirement (DS597)

On October 30, 2020, Hong Kong, China, requested consultations concerning certain measures affecting marks of origin with respect to imported goods produced in Hong Kong, China. The consultation request alleges that the measures appear to breach various provisions of the GATT 1994, the Agreement on Rules of Origin and the Agreement on Technical Barriers to Trade. Consultations took place on November 24, 2020. At the request of Hong Kong, China, the WTO established a panel on February 22, 2021. The United States has invoked Article XXI of GATT 1994, the essential security exception, explaining to the panel that the dispute concerns issues of essential security not susceptible to review or capable of resolution by WTO dispute settlement. Panel proceedings are ongoing.

United States – Tariff Measures on Certain Goods from China (DS543)

On April 4, 2018, China requested consultations with the United States concerning certain tariff measures on Chinese goods which would allegedly be implemented through section 301 of the Trade Act of 1974. The United States responded that it was willing to enter into consultations with China, without prejudice to its view that China's request did not satisfy the requirements of Article 4 of the DSU. China filed an addendum to its consultations request on July 9, 2018. Consultations took place in August and October 2018, but the parties were unable to reach a mutually satisfactory resolution to the dispute. At China's request, the WTO established a panel in June 2019. The panel held hearings with the parties in October 2019 and February 2020.

The panel circulated its report on September 15, 2020. The panel concluded that the tariff measures at issue are inconsistent with Article I:1 of the GATT 1994 (MFN), because they fail to provide treatment for Chinese products that is no less favorable than that granted to like products originating from other WTO Members, and with Articles II:1(a) and (b) of the GATT 1994, because the additional duties are in excess of the bound rates found in the U.S. Schedule. On October 27, 2020, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Certain Measures on Steel and Aluminum Products (DS544)

On April 5, 2018, China requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from China. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by

WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At China's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS547)

On May 18, 2018, India requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from India. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At India's request, in December 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS548)

On June 1, 2018, the EU requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from the EU. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the EU's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS552)

On June 12, 2018, Norway requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Norway. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Norway's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS554)

On June 29, 2018, the Russian Federation requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from the Russian Federation. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in August 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the Russian Federation's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS556)

On July 9, 2018, Switzerland requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Switzerland. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in August 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Switzerland's request, in December 2018, the WTO established a panel. Panel proceedings are ongoing.

China – Additional Duties on Certain Products from the United States (DS558)

On July 16, 2018, the United States requested consultations concerning China's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultation request identified tariff measures that appear inconsistent with Articles I and II of the GATT 1994 because China does not impose a similar duty increase on the products of other WTO Members and the applied duties are above China's bound rates. Consultations took place on August 29, 2018. At the U.S. request, the panel was established in November 2018. Panel proceedings are ongoing.

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

On July 16, 2018, the United States requested consultations concerning the EU's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultation request identified tariff measures that appear inconsistent with Articles I and II of the GATT 1994 because the EU does not impose a similar duty increase on the products of other WTO Members and the applied duties are above the EU's bound rates.

Consultations took place on August 28, 2018. At the U.S. request, the panel was established in November 2018. Panel proceedings are ongoing.

Turkey – Additional Duties on Certain Products from the United States (DS561)

On July 16, 2018, the United States requested consultations concerning Turkey's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultation request identified a tariff measure that appears inconsistent with Articles I and II of the GATT 1994 because Turkey does not impose a similar duty increase on the products of other WTO Members and the applied duties are above Turkey's bound rates. Consultations took place on August 29, 2018. On October 18, 2018, USTR requested supplemental consultations that took place on November 14, 2018, regarding amendments to Turkey's additional duties. At the U.S. request, the panel was established in January 2019. Panel proceedings are ongoing.

United States – Certain Measures on Steel and Aluminum Products (DS564)

On August 15, 2018, Turkey requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Turkey. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in October 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Turkey's request, in November 2018, the WTO established a panel. Panel proceedings are ongoing.

Russia – Additional Duties on Certain Products from the United States (DS566)

On August 27, 2018, the United States requested consultations concerning Russia's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultation request identified a tariff measure that appears inconsistent with Articles I and II of the GATT 1994 because Russia does not impose a similar duty increase on the products of other WTO Members and the applied duties are above Russia's bound rates. Consultations took place on November 9, 2018. At the U.S. request, the panel was established in December 2018. Panel proceedings are ongoing.

India – Additional Duties on Certain Products from the United States (DS585)

On July 3, 2019, the United States requested consultations concerning India's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultation request identified tariff measures that appear inconsistent with Articles I and II of the GATT 1994 because India does not impose a similar duty increase on the products of other WTO Members and the applied duties appear to be above India's bound

rates. Consultations took place on August 1, 2019. At the U.S. request, the panel was established in October 2019. Panel proceedings are ongoing.

Enforcement Supports Strategic Interests of the United States

USTR will prioritize enforcement efforts with respect key strategic priorities of the United States, including those identified under Executive Order 14017, America's Supply Chains, pandemic response and readiness and post-pandemic economic recovery. As part of the Administration's whole-of-government approach to strengthen the resilience of critical supply chains, USTR leads the interagency Supply Chain Task Force. The Supply Chain Task Force will support the goals of Executive Order 14017 by identifying unilateral and multilateral trade actions we can bring to combat unfair foreign trade practices that undermine U.S. supply chains, as well as opportunities to use trade agreements to strengthen collective approaches to supply chain resilience with U.S. partners and allies.

Consistent with USTR's 2021 Special 301 Report, USTR will continue to prioritize enforcement efforts with respect to key countries where IP protection and enforcement has deteriorated or remained at unacceptable levels and where market access for Americans who rely on IP protection has been unfairly compromised.

While China has taken many positive steps in the IP area pursuant to the Phase One Agreement, China continues to be a major enforcement priority (*see also supra* Section 301 Investigations and Actions). In addition, USTR continues to place China on the Priority Watch List and, section 306 monitoring remains in effect. China's placement on the Priority Watch List reflects U.S. concerns with the need for China to deepen reforms strengthening intellectual property (IP) protection and enforcement, fully implement recent revisions to its IP measures, refrain from requiring or pressuring technology transfer to Chinese companies, open China's market to foreign investment, and allow the market a decisive role in allocating resources. Severe challenges persist because of excessive regulatory requirements and informal pressure and coercion to transfer technology to Chinese companies, continued gaps in the scope of IP protection, incomplete legal reforms, weak enforcement channels, and lack of administrative and judicial transparency and independence.

USTR will also continue to pursue a range of enforcement efforts to address IP protection and enforcement in other countries. Outstanding challenges and trends relate to the trade in counterfeit goods, forced technology transfer and preferences for indigenous IP, protection of trade secrets, geographical indications, innovative pharmaceutical products and medical devices, and online and broadcast piracy. USTR is committed to addressing these and other priority concerns to encourage domestic investment in the United States, foster American innovation and creativity, and increase economic security for American workers and families.

Ensuring that Standards-Related Measures Do Not Create Unnecessary Obstacles to Trade

Standards-related measures are valuable tools that governments use to regulate in the public interest, for example, to protect health or safety, to provide consumer information, to protect the environment, or to prevent fraud or deception, among other aims. Standards-related measures can be used as unfair trade barriers, however, such as when a regulation discriminates on the basis of national origin (e.g., when there is no rational relationship between the government's regulatory aim and the regulatory distinction drawn that affects domestic and imported goods differently). To ensure U.S. workers, manufacturers, and businesses can compete on a level playing field, USTR will continue to address unjustified barriers stemming from technical regulations, standards, and conformity assessment procedures (standards-related measures) that discriminate against U.S. exports or do not otherwise comply with international commitments. In 2021, USTR has already raised 61 specific trade concerns in the WTO Committee on Technical Barriers to Trade (WTO TBT Committee). USTR has intensified engagement with U.S. trading partners and increased monitoring of their practices to address measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports, for example:

- During WTO TBT Committee meetings in February and May 2021, USTR raised numerous concerns about China's cybersecurity and encryption-related policies. USTR also raised concerns with China's implementing measures for China's Cosmetics Supervision and Administration Regulation and administrative measures relating to overseas producers of imported food.
- Various concerns were raised with Mexico regarding its adherence to commitments in the Technical Barriers to Trade (TBT) chapter of the USMCA.
- Through a variety of channels including bilateral engagement on the margins of the TBT Committee, USTR continues to engage directly with the European Union, its Member States, and EU trading partners to address EU technical regulations, standards and conformity assessment practices that limit market access for U.S. suppliers in the EU and third country markets, and to promote the acceptance of international standards developed in accordance with WTO-TBT recognized principles.
- USTR has raised concerns with several Indian measures in the WTO TBT Committee. Over the last year, USTR has cited problems with measures related to food safety, information technology products, genetically modified products, telegraph equipment, toys, and chemicals. In some cases, India has proposed in-country testing of goods instead of third-party testing. Such a requirement raises costs and causes delays.
- USTR continues to engage with Panama to address proposed technical regulations that are inconsistent with international standards and would impose restrictions on importation of U.S. onions and potatoes.

- USTR continued to work on encouraging other countries accepting U.S. Federal Motor Vehicle Safety Standards, including Ghana, Egypt and Columbia.
- The United States has worked independently and within various fora to implement capacity-building projects that will strengthen the skills of developing countries. For example, the United States appointed a TBT advisor within the African Union Secretariat to support the implementation of the TBT obligations in the African Continental Free Trade Agreement. The United States has implemented projects within APEC on blockchain, cybersecurity, drone technology, personal protective equipment, and good regulatory practices to help ensure that standards and regulations do not impede trade.

Following up on the June 2021 U.S.-EU Summit in Brussels, the United States will work with the EU, under the newly-launched U.S.-EU Trade and Technology Council, to identify and avoid new technical barriers to trade, particularly in new and emerging technologies.