

Several foreign police officers said they hoped to use Chinese technology and increase collaboration.

"We can learn from China," said Sydney Gabela, a major general in the South African police service.

"We wanted to check out the new technologies that are coming out so that we can deploy them in South Africa," Gabela told AFP.

At the conference, exhibitions displayed a dizzying array of policing tools.

One firm, Caltta Technologies, showed off a project helping the southern African nation of Mozambique to set up an advanced "Incident Response Platform" and touted its abilities to use big data in "rapid target location".

Tech giant Huawei said its "Public Safety Solution" was now in use in over 100 countries and regions, from Kenya to Saudi Arabia.

The tech giant was sanctioned by the United States in 2019, described as "an arm" of the Chinese surveillance state.

Other firms had even more explicit links to alleged repression.

The United States sanctioned SDIC Intelligence Xiamen Information, formerly Meiya Pico, for developing an app "designed to track image and audio files, location data, and

messages on... cellphones".

In 2018, the US Treasury said residents of Xinjiang "were required to download a desktop version of" that app "so authorities could monitor for illicit activity".

China has been accused of incarcerating more than one million Uyghurs and other Muslim minorities in Xinjiang -- charges Beijing vehemently rejects.

At the firm's booth in Lianyungang, representatives demonstrated cutting-edge facial recognition tools that allow users to sharpen fuzzy footage to better identify suspects.

"If you have a fugitive... and you only have a very blurry image of them, you can use our restoration (software) to make the photo extremely clear," one explained.

"It even shows the gaps between his teeth," he said.

The tech allows for pin-point tracking of suspects, the representative said.

"For example, if a whole video has... five hours (of footage) and we want to find them, now we can use our system to find them."

Another exhibitor, the Ministry of Public Security's Institute of Forensic Science, displayed high-tech DNA testing equipment.

Washington barred the institute in 2020 from accessing some US technology, as part of a group of Chinese firms accused of being "complicit in human rights violations and abuses".

It was later removed from that list as part of an effort to facilitate US-China cooperation in the fight against fentanyl.

Several delegations expressed interest in learning from the Chinese police.

"We have come to establish links and begin training," Colonel Galo Erazo from the National Police of Ecuador told AFP.

"Either Chinese police will go to Ecuador, or Ecuadorian police will come to China," he added.

One expert told AFP that this outsourcing of security is becoming a key tool in China's efforts to promote its goals overseas.

"Police training and advising are a growing way that China seeks to exercise influence and shape its security environment abroad," Sheena Greitens at the University of Texas at Austin said.

This, Greitens said, could give Beijing an important strategic edge.

"China's offers of police cooperation and training give them channels through which to learn how local security forces -- many either on China's periphery or in areas that Beijing considers strategically important -- view the security environment," she said.

"These initiatives can give China influence within the security apparatus if a threat to Chinese interests arises."

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READ NEXT

EXHIBIT 54



Sections

New rules let China's state security police check people's devices

Police can show their ID to gather electronic data to find out whether a criminal or illegal act has taken place.

By Qian Lang for RFA Mandarin

2024.05.08



A woman talks on her phone in the terminal of the Beijing Daxing International Airport under construction on the outskirts of Beijing, China, Friday, March 1, 2019.

China's state security police will be given sweeping powers to search electronic devices including smartphones and laptops from July 1, as part of a nationwide campaign to ensure "national security," a broad term often used by the government to include detailed economic data and political dissent.

The documents issued by the Ministry of State Security on April 26 empower its officers to gather "electronic data" relating to an investigation including "mobile phone text messages, emails, instant messages and group chats," along with "documents, images, audio and video, apps and ... log records" from electronic devices.

Police may "make inquiries" simply by presenting their police ID card, and may "collect evidence" if at least two officers present their ID card, according to the rules on administrative cases.

"The collection and extraction of electronic data shall be carried out by two or more investigators," the orders read.

However, police can investigate purely to determine "basic information about the suspect," and even whether an illegal or criminal act has taken place.

Billed by the ruling Chinese Communist Party's official *Legal Daily* newspaper as a set of guidelines for implementing the "national security concept," the documents come amid an ongoing nationwide campaign to encourage people to spot any kind of behavior that could "endanger national security," including being on the lookout for foreign spies in their daily lives.

In its report on the new rules, the nationalistic *Global Times* newspaper mentioned the campaign, citing the cases of Canadian nationals Michael Kovrig and Michael Spavor as examples of foreign spies operating in China.

Similar rules were issued governing investigations run by market regulatory agencies on April 4.

Stop and search

Legal scholar Lu Chenyuan said the new rules mean that state security police officers can stop people and search their devices without the need for a warrant, or even an ongoing criminal investigation.

"This is very bad, because they can actually check people's cell phones as part of administrative law enforcement," he said. He was referring to a type of law enforcement that goes after people who have allegedly broken the law, but whose infractions aren't deemed serious enough to warrant a full criminal prosecution.

Dissidents and rights lawyers have previously been initially held under an administrative sentence of up to 15 days, at which point police either transfer them into "residential surveillance at a designated location" or place them under criminal detention pending further investigation.

DETENTION PENDING FURTHER INVESTIGATION.



Xia Yizhi, 61, a migrant worker, looks at her phone as she stands inside her dorm in Beijing, China, Feb. 6, 2021. Tingshu Wang/Reuters)

Administrative sentences have also been widely used to target petitioners, internet users who post the wrong thing on social media, and people who took part in the November 2022 "white paper" protests across China.

Lu said the state security orders will likely contribute to an atmosphere of fear in China, and encourage people to censor themselves more than they already do.

"I think their purpose is to create a situation where everyone feels as if they could be in danger," Lu said. "They want people to carry out strict self-censorship, for example, not being in contact with anyone outside the country."

He said the authorities could also be looking for people with encrypted messaging apps like Signal or Telegram installed on their phones.

An academic who gave only the surname Liu for fear of reprisals agreed, saying the move is part of the current "national security" campaign.

"They want to push this idea of national security to everyone, to create a pervasive atmosphere of fear in everyone's daily lives," Liu said.

atmosphere of fear in everyone's daily lives," Liu said.



A traveler checks her mobile phone at Wuhan Tianhe International Airport in Wuhan, Hubei province, China January 2, 2021. (Tingshu Wang/Reuters)

Border checks already happening

Anecdotal evidence from people who frequently travel in and out of China suggests that police at the borders are already carrying out spot checks of people's phones when they cross the border.

A Hong Kong resident who gave only the surname Kong for fear of reprisals said she saw border guards examining the mobile phone of a woman at Futian Port over the weekend.

"As I was going through immigration in Shenzhen, I noticed two female border guards checking a woman's mobile phone," Kong said. "They were asking her if she had any other phones because she had more than one with her."

She said she had seen officers checking people's phones recently at airports in Nanjing and Hangzhou, too.

"They look at what's on your phone, what photos are there," Kong said. "I cleaned up my phone that day deleting any content that could be highly sensitive."

any phone that day, deleting any content that could be highly sensitive.



A woman uses her phone as she waits for customers at a market in Beijing, China September 18, 2020. (Tingshu Wang/Reuters)

A Shanghai resident who gave only the surname Shao for fear of reprisals said he had also spotted customs officials checking a man's phone at Shanghai's international airport on his way home from Japan.

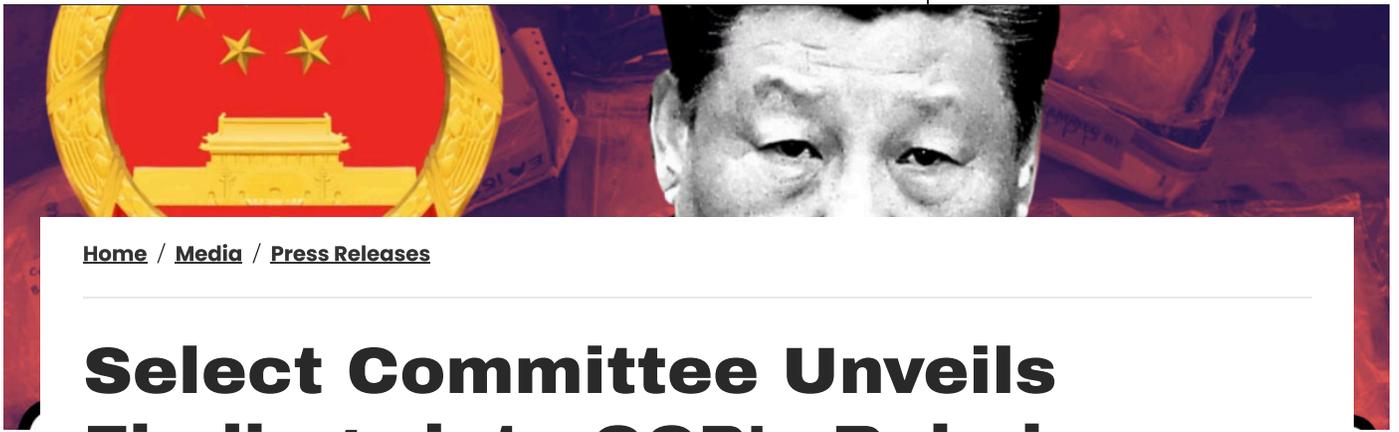
"I saw a Chinese man being stopped by customs, who looked at his phone and then let him go," Shao said. "So it seems they didn't find anything problematic on his phone."

It was unclear whether the new rules will mean that such checks will be more frequent in future.

Repeated calls to customs authorities in Shenzhen and Shanghai rang unanswered during office hours on Monday.

Translated by Luisetta Mudie. Edited by Malcolm Foster.

EXHIBIT 55



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Select Committee Unveils Findings into CCP's Role in American Fentanyl Epidemic - REPORT & HEARING

April 16, 2024 · [Press Release](#)

WATCH: Video summary of the Select Committee's findings on the CCP's role in the American fentanyl epidemic. (Click [HERE](#) for a transcript of the video)



WASHINGTON, D.C. — Following a months-long investigation, Chairman Mike Gallagher (R-WI) and Ranking Member Raja Krishnamoorthi (D-IL) of the House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party revealed their findings of the Chinese Communist Party's role in the deadly fentanyl epidemic that has killed hundreds of thousands of Americans.

The fentanyl crisis is one of the most horrific disasters that America has ever faced. On average, fentanyl kills over

200 Americans daily, the equivalent of a packed Boeing 737 crashing every single day. Fentanyl is the leading cause of death for Americans aged 18-45 and a leading cause in the historic drop in American life expectancy. It has led to millions more suffering from addiction, and the destruction of countless families and communities. Beyond the United States, fentanyl and other mass-produced synthetic narcotics from the People's Republic of China (PRC) are devastating nations around the world. It is truly a global crisis.

The PRC, under the leadership of the Chinese Communist Party (CCP), is the ultimate geographic source of the fentanyl crisis. Companies in China produce nearly all of illicit fentanyl precursors, the key ingredients that drive the global illicit fentanyl trade. The House Select Committee on the Strategic Competition between the United States and the Chinese Communist Party (Select Committee) launched an investigation to better understand the role of the CCP in the fentanyl crisis.

This investigation involved delving deep into public PRC websites, analyzing PRC government documents, acquiring over 37,000 unique data points of PRC companies selling narcotics online through web scraping and data analytics, undercover communications with PRC drug trafficking companies, and consultations with experts in the public and private sectors, among other steps.

The Select Committee's investigation has established that the PRC government, under the control of the CCP:

- **Directly subsidizes the manufacturing and export of illicit fentanyl materials and other synthetic narcotics through tax rebates.** Many of these substances are illegal under the PRC's own laws and have no known legal use worldwide. Like its export tax rebates for legitimate goods, the CCP's subsidies of illegal drugs incentivizes international synthetic drug sales from the PRC. The CCP never disclosed this program.
- **Gave monetary grants and awards to companies openly trafficking illicit fentanyl materials and other synthetic narcotics.** There are even examples of some of these companies enjoying site visits from provincial PRC government officials who complimented them for their impact on the provincial economy.
- **Holds ownership interest in several PRC companies tied to drug trafficking.** This includes a PRC government prison connected to human rights abuses owning a drug trafficking chemical company and a publicly traded PRC company hosting thousands of instances of open drug trafficking on its sites.
- **Fails to prosecute fentanyl and precursor manufacturers.** Rather than investigating drug traffickers, PRC security services have not cooperated with U.S. law enforcement, and have even notified targets of U.S. investigations when they received requests for assistance.
- **Allows the open sale of fentanyl precursors and other illicit materials on the extensively monitored and controlled PRC internet.** A review of just seven e-commerce sites found over 31,000 instances of PRC companies selling illicit chemicals with obvious ties to drug trafficking. Undercover communications with PRC drug trafficking companies (whose identities were provided to U.S. law enforcement) revealed an eagerness to engage in clearly illicit drug sales with no fear of reprisal.
- **Censors content about domestic drug sales, but leaves export-focused narcotics content untouched.** The PRC has censorship triggers for domestic drug sales (e.g., "fentanyl + cash on delivery"), but no such triggers exist to monitor or prevent the export of illicit narcotics out of the PRC.
- **Strategically and economically benefits from the fentanyl crisis.** The fentanyl crisis has helped CCP-tied Chinese organized criminal groups become the world's premier money launderers, enriched the PRC's chemical industry, and has had a devastating impact on Americans.

While the PRC government publicly acknowledged in November 2023 that the trafficking of fentanyl precursors and

other illicit narcotics materials in the manner described above is illegal under Chinese law, the Select Committee found thousands of PRC companies openly selling these illicit materials on the Chinese internet—the most heavily surveilled country-wide network in the world. The CCP runs the most advanced techno-totalitarian state in human history that “leave[s] criminals with nowhere to hide” and has the means to stop illicit fentanyl materials manufacturers, yet it has failed to pursue flagrant violations of its own laws.

Armed with the knowledge gained in the course of this investigation, the report finds that the United States should:

- **Establish a Joint Task Force – Counter Opioids (JTF-CO)** that concentrates all non-military elements of state power and executes a coordinated strategy to target the weak points in the global illicit fentanyl supply chain.
- **Provide law enforcement and intelligence officials with the statutory authorities, tools, and resources they need** to execute their responsibilities, including through enhancing international law enforcement cooperation, appropriately prioritizing fentanyl and anti-money laundering in intelligence and enforcement efforts; and recruiting and retaining top talent to combat the fentanyl threat.
- **Strengthen U.S. sanctions authorities** and use those authorities in an aggressive and coordinated manner against entities involved in the fentanyl trade.
- **Enact and use trade and customs enforcement measures** to restrict fentanyl trafficking; and
- **Close regulatory and enforcement gaps** exploited by PRC money launderers and fentanyl traffickers.

READ THE FULL REPORT [HERE](#).

Read Chairman Gallagher’s opening remarks [HERE](#) and the opening video script [HERE](#).

Read former Attorney General William P. Barr’s prepared testimony [HERE](#).

Read former DEA Chief of Operations Ray Donovan’s prepared testimony [HERE](#).

Read Mr. David Luckey’s prepared testimony [HERE](#).

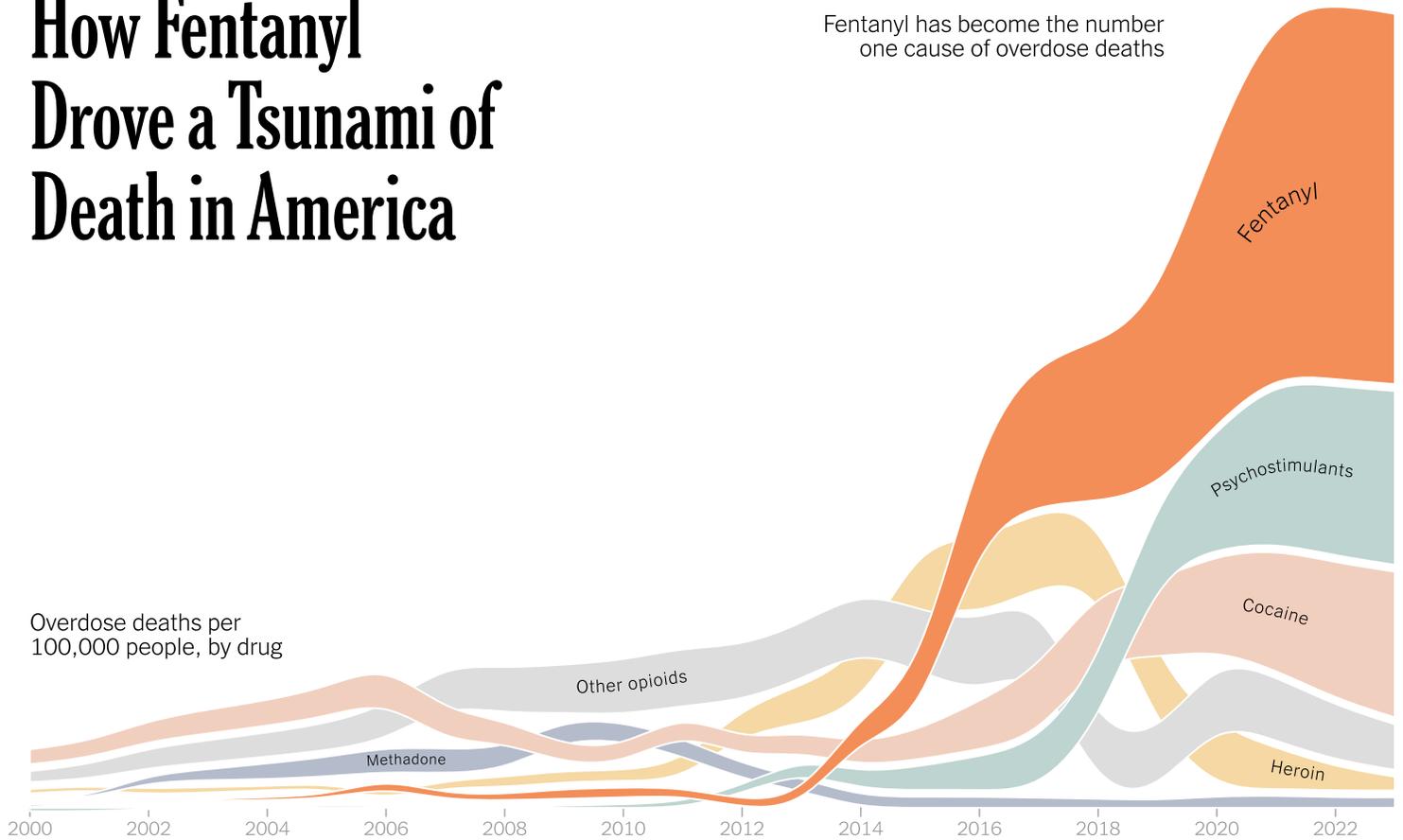
[Biosecurity](#) [CCP Economic Aggression](#) [CCP International Influence](#)

EXHIBIT 56

OPINION

How Fentanyl Drove a Tsunami of Death in America

Fentanyl has become the number one cause of overdose deaths



Source: Centers for Disease Control and Prevention

By **Maia Szalavitz**

Graphics by **Sara Chodosh and Aileen Clarke**

Ms. Szalavitz is a contributing Opinion writer who covers addiction and public policy.

Sept. 27, 2024

Last year over 70,000 Americans died from taking drug mixtures that contained fentanyl or other synthetic opioids. The good news is that recent data suggests a decline in overdose deaths, the first significant drop in decades. But this is not a uniform trend across the nation. To understand this disparity, it's important to examine how we got here.

Today's crisis is often described as a series of waves. But if you look at the data, it was more like a couple of breakers followed by a tsunami. First, prescription opioid fatalities rose. Then heroin deaths surged. And finally, illicitly manufactured fentanyl overtook all that preceded it.

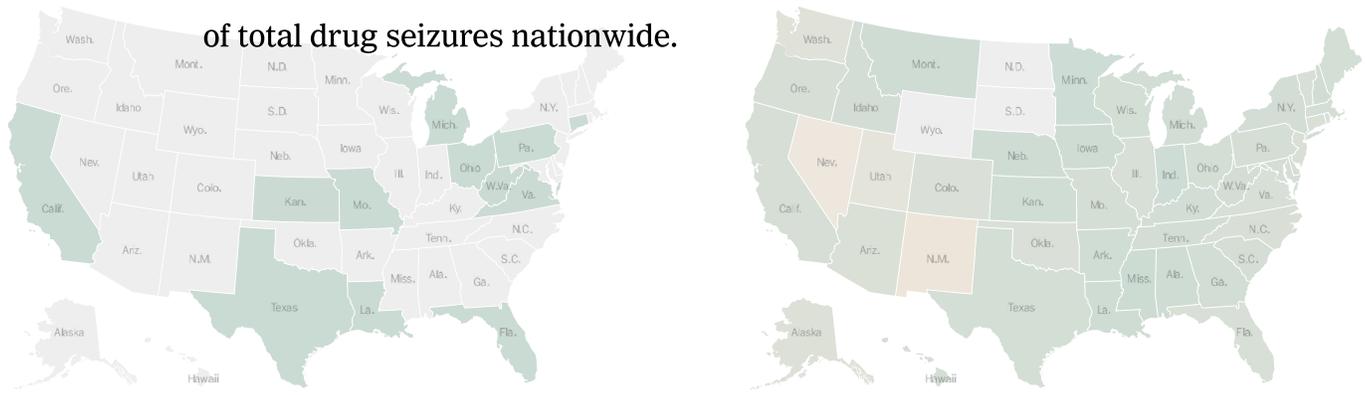
Once fentanyl and other synthetic opioids dominate a market, whether a state is red or blue doesn't matter. Skyrocketing overdose deaths are nearly unavoidable, regardless of whether a state enforces tough penalties for drug possession or decriminalizes it.

Understanding how fentanyl saturated the drug supply, moving from the East Coast of the United States to the West, is critical to ending the worst drug crisis in American history.

2000



In 2000, America was in its first wave of the opioid crisis. This was dominated by deaths from prescription painkillers like OxyContin. As you can see in the first map, though not entirely new to the country, illicitly manufactured fentanyl made up a tiny percentage



Because escalations in opioid prescribing to treat pain were seen as the cause of the overdose problem, doctors began cutting off patients and law enforcement shuttered so-called pill mills. The

number of opioid prescriptions began plummeting.

But little was done to offer alternative treatments for pain, or to help people addicted to opioids. This helped spur the heroin wave

of the crisis, which started around 2011.

Then came the tsunami. By 2013, drug cartels had realized that they could slash their labor, manufacturing and transit costs by replacing heroin derived from farm-grown opium with a powder

made in a lab — fentanyl.

Illegally manufactured fentanyl and similar synthetic drugs spread across the United States over several years, starting in the East

and gradually moving to the West.

Before 2018, 80 percent of all deaths associated with fentanyl occurred east of the Mississippi. Now it dominates American drug markets. Since 2021, at least two-thirds of America's 100,000 annual

overdose deaths involved a synthetic opioid like fentanyl.

Sources: Centers for Disease Control and Prevention, National Forensic Laboratory Information System

People who use drugs and those who work with them can often cite a specific month, sometimes a particular day, when fentanyl entered the local drug supply. It's as if bartenders suddenly replaced light beer with a drink that tasted the same but was 95 percent alcohol and customers unwittingly chugged it. Many drinkers would rapidly pass out, and some might die.

When fentanyl arrives in a community, local responders go from dealing with, say, a few overdoses a week or a month to half a dozen or more per day.

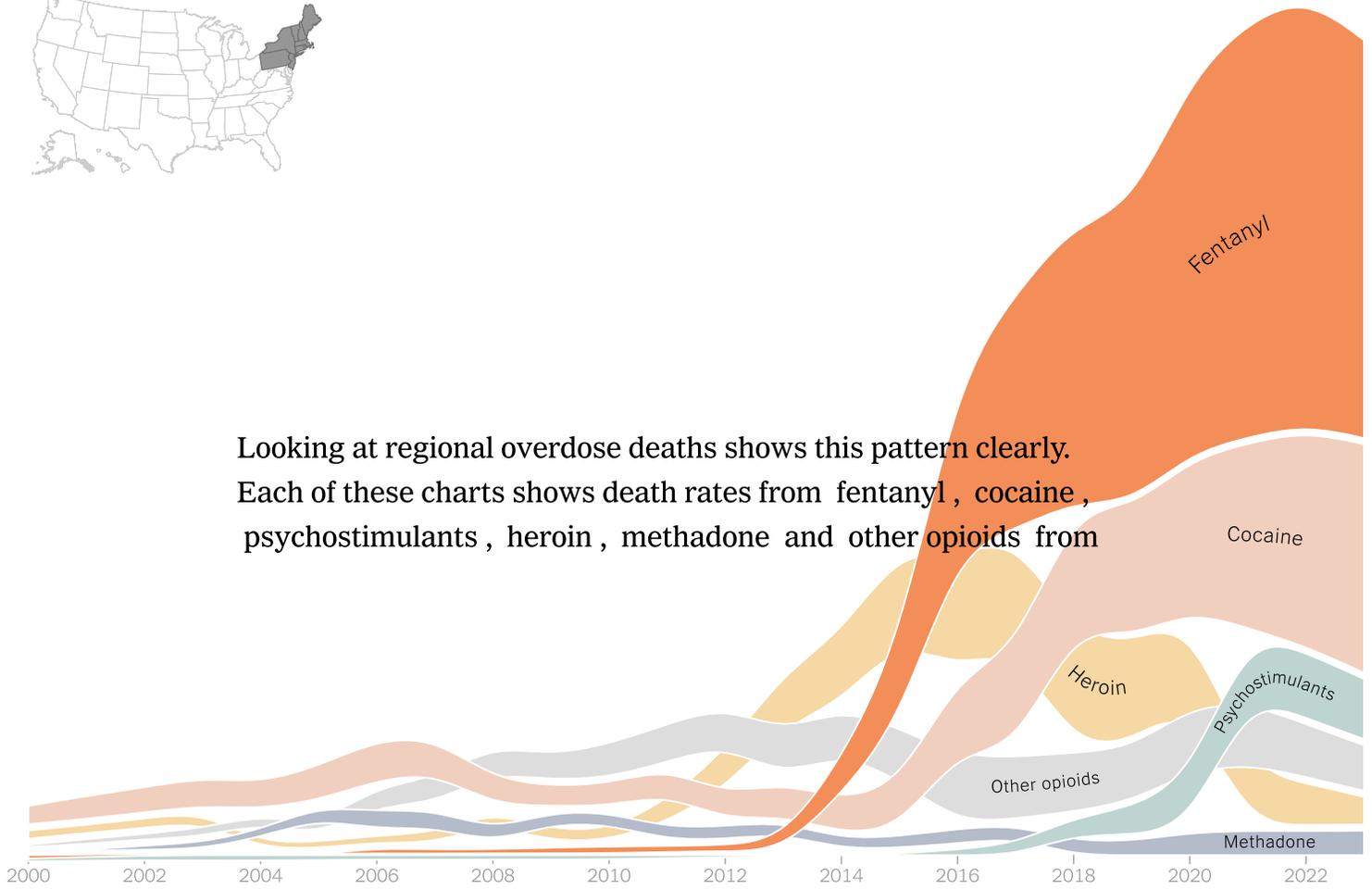
Once a drug market is saturated by synthetic opioids, the death rate skyrockets immediately. That's because they are much stronger: For example, fentanyl itself is 50 times more potent than heroin and another synthetic, carfentanil, is 5,000 times stronger.

This explains why after these synthetics enter a market, a large spike in deaths will happen regardless of whether the state has felony-level penalties for personal drug possession, like Texas and Idaho do, or whether it is experimenting with decriminalization, as Oregon did for a few years. Synthetic opioids hit Oregon and its neighbors at roughly the same time — but nearby states that didn't decriminalize still saw deaths skyrocket. Historically, longer jail or prison sentences and higher arrest rates at the state or country level have not reduced opioid use or overdose death rates.

Preliminary data from the C.D.C. shows that between April 2023 and April 2024, the United States experienced its first national decline in overdose deaths in decades — the rate fell by 10 percent. But this good news hides regional variation. Some states in the West, where fentanyl generally arrived later, are still seeing sharp increases.

Overdose deaths in the **Northeast**

Deaths per 100,000 people



2000 through 2023.

Heroin has historically been associated with cities, and New York City as the nation's capital of distribution and use. However, increased opioid prescriptions — followed by sharp reductions —

resulted in new heroin users in rural areas. Illegally manufactured fentanyl began appearing in both urban and rural drug markets in the East Coast.

Before illegally manufactured fentanyl took off across the country, Chicago got a brief taste of its power in 2005 and 2006, experiencing a spike of over 300 deaths. For unknown reasons, these drugs then disappeared and deaths did not rise dramatically

again until 2014, when the drugs washed over the whole region.

Rural West Virginia and other Appalachian regions were the center of the earliest prescription opioid wave of the crisis, which led to the establishment of new heroin markets in places facing job loss. When pill mills in Florida that provided much of the region's supply

were closed, heroin, and then fentanyl, moved in.

One potential reason fentanyl spread more slowly to the West Coast is that heroin there has long been sold in a dark, sticky form known as black tar. In the East, heroin was sold as a light-colored powder, so it was easier to conceal fentanyl's presence.

Nonetheless, synthetic opioids have now spread fully to the West, in black tar and powder form and pressed into counterfeit prescription pills.

Source: Centers for Disease Control and Prevention

Combating this problem is deeply challenging, for several reasons.

Fentanyl and other synthetic opioids are much cheaper and easier to make than heroin. To produce heroin, cartels need many acres of suitable land to grow poppies, hundreds of farmers and laborers to plant and harvest them, dozens of small, secure processing plants to turn raw opium into heroin, numerous guards and enforcers for protection and smugglers to get the product into the United States. To produce fentanyl, they need a few chemists in a lab, some commercially available substances and some distributors; it is often simply sent through the mail.

The amount needed to provide everyone in the United States who uses fentanyl with a year's supply would require only a single trailer truckload of pure drug. To deliver the same amount for heroin would require six trailer truckloads. Consider that the U.S.-Mexico border is crossed daily by some 20,000 trucks, 200,000 cars, 100,000 pedestrians and a huge number of flights, trains and boats. The difference in the size and weight of fentanyl, compared to heroin, makes significantly interrupting the supply at the border nearly impossible.

So, what *can* be done?

The answer is to focus on the drivers of demand, not supply. This means addressing the roots of addiction and treating it compassionately. Addiction is most often an attempt to escape despair. The condition itself is defined by compulsive drug use despite negative consequences, which is why threats of punishment or even death rarely yield recovery.

We have a great generic opioid overdose antidote, naloxone. It needs to be cheaper and available everywhere, not hidden behind pharmacy counters but placed near every defibrillator and in every first aid kit. Two medications — methadone and buprenorphine — have proved to cut the risk of death among people with opioid addictions by 50 percent or more when used

long-term. They also need to be made accessible to all people with opioid addiction. Right now, most rehabs still fail to adequately provide them.

Most addiction results from attempts to self-medicate isolation, social disconnection, psychiatric disorders, trauma and severe economic distress. It's not coincidental that the exponential rise in overdose deaths has occurred in tandem with a profound increase in income inequality. Punishing people for trying to feel better in a world that doesn't seem to want them doesn't help.

Read more about the crisis of overdose deaths

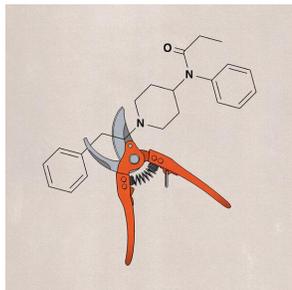


Why Miami's Approach to Addiction Is Working

How harm reduction can work in a red state.

By Maia Szalavitz

June 6, 2024



The Fentanyl Trade Is Killing Americans. We Have the Means to Combat It.

A former F.D.A. commissioner thinks we've ignored two crucial avenues that are fueling the opioid crisis.

By Scott Gottlieb

Aug. 7, 2024



After My Brother's Overdose Death, Misinformed People Added to Our Grief

You cannot overdose on fentanyl by touching a person who overdosed.

By John Woller

Aug. 4, 2024

Maia Szalavitz (@maiasz) is a contributing Opinion writer and the author, most recently, of "Undoing Drugs: How Harm Reduction Is Changing the Future of Drugs and Addiction."

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EXHIBIT 57

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SHOTS - HEALTH NEWS

Stimulant users caught up in fatal 'fourth wave' of opioid epidemic

JULY 9, 2024 · 2:53 PM ET

HEARD ON ALL THINGS CONSIDERED

By Lynn Arditi

[4-Minute Listen](#)

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A middle-aged man smoking crack cocaine in Rhode Island. The state had the country's fourth-highest rate of overdose deaths involving cocaine in 2022.

Lynn Ardití/Lynn Ardití/The Public's Radio

In Pawtucket, R.I., near a storefront advertising “free” cell phones, J.R. sat in an empty back stairwell and showed a reporter how he tries to avoid overdosing when he smokes crack cocaine.

(NPR is identifying him by his initials because he fears being arrested for using illegal drugs.)

KFF Health News

This story was produced in partnership with KFF Health News.

It had been several hours since his last hit, and the chatty, middle-aged man's hands moved quickly. In one hand, he held a glass pipe. In the other, a lentil-sized crumb of cocaine.

Or at least J.R. hoped it was cocaine, pure cocaine — uncontaminated by any fentanyl, a potent opioid that was linked to nearly 80% of all overdose deaths in Rhode Island in 2022.

He flicked his lighter to “test” his supply. If it has a “cigar like sweet smell,” he said, it means that his cocaine is laced with “fetty” or fentanyl. He put the pipe to his lips and took a tentative puff. “No sweet,” he said, reassured.

Sponsor Message

But this “method” he devises offers only false — and dangerous — reassurance. It’s actually impossible to tell for sure if a drug contains fentanyl by the taste or smell. And a mistake can be fatal.

“Somebody can believe that they can smell it [fentanyl] or taste it, or see it...but that's not a scientific test,” said Dr. Josiah “Jody” Rich, an addiction specialist and researcher who teaches at Brown University. “People are gonna die today because they buy some cocaine that they don't know has fentanyl in it.”

The mix of stimulants like cocaine and methamphetamines with fentanyl — a synthetic opioid 50 times more powerful than heroin — is driving what experts call the opioid epidemic’s “fourth wave.” The mixture presents powerful challenges to efforts to reduce overdoses, because many users of stimulants don’t know they are at risk of ingesting opioids and so don’t take overdose precautions.

The only way to know if cocaine or other stimulants contain fentanyl is to use drug-checking tools such as fentanyl test strips — a best practice for harm reduction now embraced by federal health officials for combating drug overdose deaths. Fentanyl test strips cost as little as \$2 for a two-pack online, but many front-line organizations also give them out for free.



A test kit used to detect the powerful opioid fentanyl in a sample of cocaine.

Lynn Ardit/The Public's Radio

In the U.S., the first wave of the long-running and devastating opioid epidemic began with the abuse of prescription painkillers (early 2000s); the second wave involved an increase in heroin use, starting around 2010.

The third wave began when powerful synthetic opioids like fentanyl started appearing in the supply around 2015.

Now experts are observing a fourth phase of the deadly epidemic. Nationwide, illicit stimulants mixed with fentanyl were the most common drugs found in fentanyl-related overdoses, according to a study published in 2023 in the scientific journal *Addiction*.

The stimulant in the fatal mixture tends to be cocaine in the Northeast, and methamphetamine in the West and much of the Midwest and South.

“The number one thing that people in the U.S. are dying from in terms of drug overdoses is the combination of fentanyl and a stimulant,” said Joseph Friedman, a researcher at UCLA and the study’s lead author.

“Black and African Americans are disproportionately affected by this crisis to a large magnitude, especially in the Northeast.”

Factors driving polydrug overdoses

It’s not clear how much of the latest trend in polydrug use is accidental or intentional. A recent study from Millennium Health found that most people who use fentanyl do so at times intentionally and other times unintentionally.

People often use stimulants to power through the rapid withdrawal from fentanyl, Friedman said. And the high-risk practice of using cocaine or meth with heroin, known as speedballing, has been around for decades.

Other factors include manufacturers adding the cheap synthetic opioid to a stimulant to stretch out their supply, or dealers mixing up bags.

But in Rhode Island, researchers said, many people still think they are using unadulterated cocaine or crack — a misconception that can be deadly.

Stimulant users unprepared for fentanyl's ubiquity

“Folks who are using stimulants, and not intentionally using opioids, are unprepared to respond to an opioid overdose...because they don't perceive

themselves to be at risk,” said Jaclyn White Hughto, a Brown University epidemiologist and a principal investigator in a new, unpublished study called Preventing Overdoses Involving Stimulants.

The researchers surveyed more than 260 people in Rhode Island and Massachusetts who use drugs, including some who manufacture and distribute stimulants like cocaine.

More than 60% of the people they interviewed in Rhode Island had bought or used stimulants that they later found out had fentanyl in them.

In 2022, Rhode Island had the fourth highest rate of overdose deaths involving cocaine in 2022, after D.C., Delaware and Vermont. according to the U.S. Centers for Disease Control and Prevention (CDC).

People who don't regularly use opioids have lower tolerance, which puts them at higher risk of an overdose.

And many of the people interviewed in the study also use drugs alone, so if they do overdose they may not be found until it's too late.



Jennifer Dubois, a single mother whose 19-year-old son, Clifton, died in 2020 of an overdose. The counterfeit Adderall pill he consumed contained the powerful opioid fentanyl.

Lynn Arditi/The Public's Radio

Dubois was a single mother raising two Black sons. The older son, Clifton, had been struggling with addiction since he was 14, she said. Clifton also had been diagnosed with ADHD and a mood disorder.

Back in March 2020, Clifton had just checked into a rehab program as the pandemic ramped up, Dubois said.

Because of the lockdown at rehab, Clifton was upset about not being able to visit with his mother. “He said, ‘if I can’t see my mom, I can’t do treatment,’” Dubois recalled. “And I begged him” to stay in treatment.”

But soon after, Clifton left the rehab program. He showed up at her door. “And I just cried,” she said.

Dubois's younger son was living at home. Dubois didn't want Clifton doing drugs around his younger brother. So she gave Clifton an ultimatum: "If you want to stay home, you have to stay drug free."

Clifton went to stay with family friends, first in Atlanta, and later in Woonsocket, an old mill city that has Rhode Island's highest rate of drug overdose deaths.

In August of 2020, Clifton overdosed but was revived. Clifton later confided that he'd been snorting cocaine in a car with a friend, Dubois said.

Hospital records show he tested positive for fentanyl.

"He was really scared," Dubois said. After the overdose, he tried to "leave the cocaine and the hard drugs alone," she said. "But he was taking pills."

Eight months later, on April 17, 2021, Clifton was found unresponsive in the bedroom of a family member's home.

The night before, Clifton had bought counterfeit Adderall, according to the police report. What he didn't know was that the Adderall pill was laced with fentanyl.

"He thought by staying away from the street drugs...and just taking pills, like, he was doing better," Dubois said. "I do truly believe Cliff thought he was taking something safe."



A memorial billboard posted in downtown Woonsocket, R.I. in 2023, by friends of Jennifer Dubois. The billboard features her 19-year-old son, Clifton, who died in 2020 of a drug overdose.

Lynn Arditi/The Public's Radio

The opioid epidemic is driving up the mortality rate among older Black Americans (ages 55-64) and, more recently, Latinx people, according to a study recently published in *The American Journal of Psychiatry*.

But it's too simplistic to merely focus on whether fentanyl is present, or not, said Joseph Friedman, the researcher at UC San Diego and the study's author.

For years, hospitals have safely used medical grade fentanyl for surgical pain because the potency is strictly regulated.

"It's not the strength of fentanyl, that's risky," he said. "It's the fact that the potency fluctuates wildly in the illicit market."

Studies of street drugs, he said, show that in illicit drugs the potency can vary from 1% to 70% fentanyl.

"Imagine ordering a mixed drink in a bar and it contains one to 70 shots," Friedman said, "and the only way you know is to start drinking it...There would be a huge number of alcohol overdose deaths."

Drug checking technology can provide a rough estimate of fentanyl concentration, he said, but to get a precise measure requires sending drugs out to a laboratory.

Fentanyl test strips offer a low-cost way to prevent overdoses by detecting the presence of fentanyl, regardless of potency, in cocaine and other illicit drugs.

In Rhode Island, the test kits are available for free from harm reduction groups such as Project Weber/Renew.

But the test strips only work if people use them – and then don't consume the drugs if they test positive for fentanyl. And not enough people who use stimulants do.

This story comes from NPR's health reporting partnership with The Public's Radio and KFF Health News.

EXHIBIT 58



Drug Enforcement Administration

Frank A. Tarentino III
Special Agent in Charge - New York
@DEANewYorkDiv

Year in Review: DEA Innovates to Fight Fentanyl

January 18, 2024

For Immediate Release

Contact: Kenneth M. Heino

Phone Number: 862-373-3557

DEA New York Division Seized 10% of Number of Deadly Doses of Fentanyl Seized Nationwide

NEW YORK CITY – In 2023, the U.S. Drug Enforcement Administration marked its 50th anniversary as the only federal agency dedicated to fighting deadly drugs and drug-related violence. This milestone celebrated a half century of dedication to fighting drug trafficking in the United States and around the world, which threatens the public safety, health, and national security of our nation. DEA also ushered in a transformation of DEA's organization and strategy to meet this extraordinary moment in time as the United States confronts the deadliest drug threat our country has ever faced – fentanyl.

Today, fentanyl is the leading cause of death for Americans between the ages of 18 and 45. In calendar year 2023, DEA seized more than 77 million fentanyl pills and nearly 12,000 pounds of fentanyl powder. This is the most fentanyl seized by DEA in a single year. It amounts to more than **386 million deadly doses of fentanyl** – enough to kill every American.

The fentanyl we see today is even deadlier than before. Fentanyl pills today are more potent. DEA laboratory testing in 2023 showed that 7 out of 10 pills tested contain a potentially deadly dose of fentanyl. This is an increase from 4 out of 10 pills in 2021 and 6 out of 10 pills in 2022. A potentially deadly dose is considered just two milligrams of fentanyl, which is approximately the amount that fits on the tip of a pencil.

The Centers for Disease Control and Prevention is predicting record numbers of drug poisonings for 2023, with their latest estimate for the 12-month period ending June 2023 at 112,323 American lives lost. Nearly 70% of these drug poisonings are from fentanyl. In New York, it is estimated that approximately 6,000 people in New York died of drug poisonings in 2023, approximately half of those in New York City. According to the New York City Department of Health, 84% of 712 drug-related poisonings from January through March 2023 in New York City were caused by opioids.

DEA Special Agent in Charge Frank

Tarentino stated: “Deception masks reality when it comes to deadly drugs on today’s city streets. The vast majority of the exhibits

submitted into the DEA's New York City based Northeast Regional Laboratory were fentanyl; lab analysis also revealed that fake prescription pills were anything but prescription drugs. Drug seizures by DEA New York reinforce our warnings about synthetic drugs: fentanyl is the main drug trafficked in the Northeast and synthetic drugs are parents' worst nightmares. Seven out of ten fake pills seized had lethal amounts of fentanyl and most contained various mixtures of fentanyl, methamphetamine, xylazine and/or other synthetic drugs making each pill a ticking time bomb for users. From 2022 to 2023, there were a 270% increase in methamphetamine seizures in New York, 307% increase in methamphetamine pills in New York, 55% increase in cocaine seizures

in New York and 119% increase in fentanyl pill seizures in New York showing the drug cartels' reliance on synthetic drugs and their intent to make illicit drugs cheap, convenient and appealing to users. The DEA New York Division seized 4.2 million fake fentanyl pills and over 500 kilograms of fentanyl powder in 2023, which is the equivalent of potentially **37 million lethal doses**. DEA works tirelessly to save lives and we do that by seizing dangerous drugs and bringing to justice those responsible for the drug-related crime, overdoses/poisoning and violence to our communities.”

DEA has responded to this unprecedented threat with unprecedented action. DEA's mission is to save American lives by defeating the two cartels that are responsible for the vast majority of fentanyl

that is flooding our country: the Sinaloa Cartel and the Jalisco Cartel. DEA has built a new strategic layer of Counter Threat Teams to focus on each cartel and the illicit finance networks that fund them both. These Counter Threat Teams draw on the intelligence from our 334 offices around the world to map the cartels' global networks and to identify targets for investigation and prosecution. While the cartels' operations are based in Mexico, DEA has identified more than 50 additional countries where these criminal networks operate. DEA has also traced the cartels' global supply chain around the world. The cartels purchase chemicals from companies in China, mass produce the fentanyl in Mexico, and then traffic and distribute finished fentanyl widely throughout the United States. In

2023, DEA took actions to disrupt every step of this fentanyl supply chain — from bringing the first-ever charges against Chinese chemical companies and their owners for supplying precursor chemicals, to charging and extraditing leaders, enforcers, and associates of the cartels in Mexico, to tracking down the criminal organizations and individuals in our communities responsible for the last mile of distribution of fentanyl on our streets and on social media.

These are DEA's latest actions in our unwavering commitment to protect the lives of Americans. DEA remains relentlessly focused on one unifying mission — saving American lives. DEA will continue to act, innovate, and follow a data-driven,

intelligence-led approach, to defeat the fentanyl threat and meet the challenges of tomorrow.

###

EXHIBIT 59

California Seized Enough Fentanyl to Potentially Kill the Entire Population of North America, Twice

California invests in fighting opioid crisis & getting resources to people & communities

SACRAMENTO – Governor Gavin Newsom released the following statement on the end-of-year numbers in California’s comprehensive and historic fight toward ending the opioid epidemic.

“The opioid crisis has touched every part of California, and our nation, this year. As we mourn the many lives lost, California is working harder than ever to fight this crisis and protect people from these dangerous drugs to ensure our communities are kept safe in the first place,” said Governor Newsom. “California is cracking down on the fentanyl crisis – increasing seizures, making resources more available to Californians, and ensuring communities have what they need to combat the immeasurable harm opioids have caused our society, our communities, and our loved ones.”

KEY NUMBERS:

- **MORE THAN \$1 BILLION INVESTED** since the beginning of the Newsom Administration to address the opioid crisis, with CalHHS investing \$450 Million in the current fiscal year.
- **28,765 POUNDS SEIZED** by law enforcement with support from the California National Guard in support of law enforcement during 2022, an estimated street value of more than \$230 Million and saving potentially hundreds of millions of lives [according](#) to the DEA.
- **594% INCREASE IN FENTANYL SEIZED** by law enforcement with help from the California National Guard compared to 2021.
- **166 NEW GUARD MEMBERS** hired, trained, and embedded by California’s National Guard to support the Governor’s initiative to reduce deadly fentanyl in communities.

RECENT ACTION: The state is making millions of dollars in grants available to address the ongoing opioid epidemic. Yesterday, CDPH [announced](#) it will bolster efforts to raise awareness of the life-saving drug Naloxone by working with colleges and universities across California. On Tuesday, DHCS [announced](#) that millions of dollars in grants are available to help improve patient care in the areas of substance use disorder, opioid use disorder, and addictions. Last week, DHCS [announced](#) that millions of dollars in new grants were now available to tackle youth opioid use, including schools and other nonprofit organizations. In July, the state of California [received](#) more than \$100 million as part of the national opioid settlement with multiple major pharmaceutical companies. And as part of last year’s budget, Governor Newsom provided additional funding to increase the California National Guard’s capacity to combat the fentanyl crisis and support federal, state and local law enforcement counter-narcotic investigations and operations.

###

EXHIBIT 60

PUBLIC SAFETY ALERT

DEA Issues Warning About Illegal Online Pharmacies </alert/dea-issues-warning-about-illegal-online-pharmacies> - DEA Issues Warning About Illegal Online Pharmacies

DEA Fentanyl Seizures in 2024

In 2023, DEA seized more than 80 million fentanyl-laced fake pills and nearly 12,000 pounds of fentanyl powder. The 2023 seizures are equivalent to more than 390 million lethal doses of fentanyl.

The 2024 fentanyl seizures represent over 290 million deadly doses. *

47,500,000+	5,768+ lbs.
Millions of Fentanyl Pills Seized	Pounds of Fentanyl Powder Seized

* 2 mg of fentanyl equates to a potentially deadly dose



Public Safety Alert

Laboratory testing indicates 7 out of every 10 pills seized by DEA contain a lethal dose of fentanyl.

DEA has seized a record 79.5 million fentanyl pills to date in 2023, which already exceeds last year's totals of 58 million pills.

Can You Spot the Fake?

Never trust your own eyes to determine if a pill is legitimate. The only safe medications are ones prescribed by a trusted medical professional and dispensed by a licensed pharmacist.



Deadly Dose

2mg, the amount on the tip of this pencil, can be enough to kill an average American.

EXHIBIT 61



PRESS RELEASE

HSI, DEA, and local partners, seize more than 16 kilograms of fentanyl powder and 60,000 fentanyl pills in fast-moving investigation

Friday, May 10, 2024

For Immediate Release

U.S. Attorney's Office, Western District of Washington

Surveillance of trafficking group stretched from Renton to Bellingham

Seattle – A fast moving investigation resulted in the seizure of a large amount of fentanyl and four federal arrests, announced U.S. Attorney Tessa M. Gorman. The investigation began in late March with undercover agents setting up initial drug deals. The case culminated with arrests and seizures on May 9, 2024. The four defendants appeared today in U.S. District Court in Seattle.

“This quick work by federal and local law enforcement will save lives with 16 kilos of fentanyl powder and tens of thousands of pills taken off the street,” said U.S. Attorney Gorman. “With deadly fentanyl overdoses occurring at a rate of two a day in King County alone, we are focused at getting as much fentanyl as we can off the streets and out of circulation.”

“Fentanyl traffickers threaten the lives of our community for profit, and this amount of fentanyl represented over 1.6 million potentially lethal doses,” said David F. Reames, Special Agent in Charge, DEA Seattle Field Division. “The Drug Enforcement Administration and our partners work tirelessly to stop those who would bring this tragedy to our communities and this case is another example of the power of teamwork to make us all safer.”

According to the criminal complaint, undercover agents working with Homeland Security Investigations posed as well-funded drug customers. They set up a deal to purchase kilos of fentanyl powder and pills. Elvin Irias-Escoto, 22, of Honduras, who lived in Renton, agreed to supply the drugs. DEA Tacoma agents surveilled Irias-Escoto and his coconspirators as they packed boxes, a backpack, and a cooler into a car at a Renton apartment complex. The four conspirators drove to the Bellingham area where they had set the drug sale for a shopping center parking lot. The defendants showed law enforcement two boxes which contained 15 packages of just over 15 kilograms of fentanyl powder.

Ultimately all four men were arrested. In addition to Irias-Escoto, these three defendants are charged in the case:

Selvin Ponce-Maradiaga, 26, of Honduras, living in Renton, WA

Sammy Maradiaga-Escoto, 20, of Honduras, living in Federal Way, WA

Hector Rosales-Martinez, 24 of Honduras, Washington residence unknown

In addition to the fentanyl powder, law enforcement seized a firearm that was in the car. A search of the Renton apartment by agents resulted in the seizure of an additional 60,000 fentanyl pills, another kilogram of fentanyl powder and multiple boxes of ammunition.



“Today’s successful operation, resulting in four arrests and the seizure of a significant quantity of fentanyl, underscores the importance of collaborative efforts between HSI and our law enforcement partners,” said Special Agent in Charge Robert Hammer, who oversees HSI operations in the Pacific Northwest. “This joint investigation exemplifies the dedication and coordination necessary to combat the scourge of illicit drugs in our communities. We remain committed to working together to disrupt criminal networks and protect the safety and well-being of our citizens.”



"I cannot overstate the gravity of this fentanyl seizure and the pivotal role of our collaborative partnerships, said Tobin Meyer, Commander of the Skagit County Interlocal Drug Enforcement Unit (SCIDEU). "This operation epitomizes the effectiveness of pooling resources and expertise across agencies. Through unified efforts, we send a clear message to drug traffickers: we will relentlessly pursue you, disrupt your operations, and safeguard our communities from the devastating impact of illicit substances."

The charges contained in the criminal complaint are only allegations. A person is presumed innocent unless and until he or she is proven guilty beyond a reasonable doubt

in a court of law.

This case was the result of coordinated work between HSI, DEA, FBI, Skagit County Interlocal Drug Enforcement Unit, Whatcom County Sheriff's Office, Customs and Border Protection Office of Field Operations, Customs and Border Protection Air and Marine Operations, and U.S Border Patrol.

The case is being prosecuted by Assistant United States Attorneys Yunah Chung and Jehiel Baer.

Contact

Press contact for the U.S. Attorney's Office is Communications Director Emily Langlie at (206) 553-4110 or Emily.Langlie@usdoj.gov.

Updated May 10, 2024

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October 11, 2024

PRESS RELEASE

Fourteen indicted in multi-state drug trafficking conspiracy linked to deadly fentanyl distributed to members of the Lummi Nation

Seattle – Law enforcement fanned out across the country and in western Washington yesterday arresting 17 people on indictments and criminal complaints for a multi-state drug trafficking conspiracy.

EXHIBIT 62



GROWTH & HOUSING HEALTH PUBLIC SAFETY

NEWS IN BRIEF

DEA forecasts a record-breaking year for fentanyl seizures in Utah

BY: KYLE DUNPHEY - JULY 4, 2024 12:34 PM



📷 Tens of thousands of fentanyl pills recently seized by the DEA's Rocky Mountain Field Division are pictured on July 1, 2024. (Credit: U.S. Drug Enforcement Administration)

On the heels of a massive bust, the U.S. Drug Enforcement Administration, or DEA, expects the number of fentanyl pills seized in Utah this year to be record-breaking.

In less than two weeks this June, the DEA's Rocky Mountain Field Division seized about 170,000 fentanyl pills in the Beehive State, the agency said in a news release. That's about one quarter of what was seized in all of 2023, which at 664,000 pills was the most fentanyl confiscated in Utah by the DEA in one year, ever.

The division, which covers Utah, Colorado, Wyoming and Montana, seized about 3.4 million fentanyl pills in 2023, which is also a record, according to the DEA.

The influx of pills is evidence of Mexican criminal groups in Utah, said Jonathan Pullen, the special agent in charge of the Rocky Mountain Field Division.

“The drug cartels primarily operating in Mexico are not slowing down production and distribution of this deadly poison,” Pullen said in a statement. “Fentanyl pills and powder are out there, and the cartels targeting Utah do not care if you and the family are in summer vacation mode. DEA continues to urge you to discuss the lethal nature of fentanyl with family, friends and within your community.”

The investigations into these seizures are ongoing, the DEA said, and additional details and court records are not currently available.

In a warrant filed in Utah’s 4th District Court this past March, agents describe an unnamed drug trafficking group from Sinaloa, Mexico, which has been under investigation since 2016 for its operations along the Wasatch Front.

“The investigation has resulted in the arrest of dozens of (drug trafficking organization) members, the seizure of hundreds of pounds of heroin, cocaine and methamphetamine and the seizure of over \$2 million in cash and assets,” the warrant reads.

Data from the U.S. Centers for Disease Control show that about 105,000 Americans died from a drug overdose last year – according to the DEA, about 70% of those deaths involved fentanyl.

“The recent seizures totaling 170,000 fentanyl pills in Utah means more than likely, lives have been saved – from St. George to Logan, Moab to Wendover – and across the state,” said Dustin Gillespie, the special agent in charge of the Salt Lake City DEA office.

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KYLE DUNPHEY  

Kyle Dunphey covers politics, public safety and the environment for Utah News Dispatch. He was named Best Newspaper Reporter by the Utah Society of Professional Journalists in 2023 for his work on crime and immigration at the Deseret News. Kyle moved to Utah in 2013 from his home state of Vermont and has degrees from Salt Lake Community College and the University of Utah.

Utah News Dispatch is part of [States Newsroom](#), the nation's largest state-focused nonprofit news organization.

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EXHIBIT 63

1985

The Trade and Tariff Act of 1984: An Analytical Overview

Joseph H. Price

Recommended Citation

Joseph H. Price, *The Trade and Tariff Act of 1984: An Analytical Overview*, 19 INT'L L. 321 (1985)
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The Trade and Tariff Act of 1984: An Analytical Overview

I. Introduction

On October 30, 1984, President Reagan, in a Rose Garden ceremony at the White House, signed the Trade and Tariff Act of 1984 (the Act was frequently referred to in Congress as the Omnibus Trade Bill). In signing this legislation, the President called it "the most important trade law approved by the Congress in a decade."¹ U.S. Trade Representative William Brock, who was principally responsible for shepherding the legislation through the Congress, struck a similar note in his speech during the ceremony, saying that the new law represented "a commitment to our trading partners and to our people that we stand ready to move forward to insist on freer and fairer trade."² According to Ambassador Brock, the new law "demonstrates not just a faith in ourselves as a nation of craftsmen, investors, and entrepreneurs, but the belief that only by keeping our markets open and fighting hard for the opening of similar market opportunities abroad will we become more competitive and will other nations achieve a full world recovery."³

Despite the words of praise noted above, the Trade and Tariff Act of 1984 (hereinafter referred to as the "TTA") is by no means uncontroversial. One of the major criticisms of the TTA relates to what it did not do. For example, a number of provisions that would have greatly strengthened the position of domestic industries seeking relief from imports were dropped at the last

*Mr. Price is a partner in the Washington, D.C. office of Gibson, Dunn and Crutcher where he specializes in international trade law. He is a member of the District of Columbia Bar.

1. White House Press Release on "Remarks of the President at Signing Ceremony for the Omnibus Trade Bill," October 30, 1984.

2. As reported in The Bureau of National Affairs' *Daily Report for Executives*, October 31, 1984, pp. L-5 and L-6.

3. *Id.*

minute. This was noted by Leonard Santos, International Trade Counsel to the Senate Finance Committee, when he recently commented that "many proposals excluded from the TTA can be said to have been settled definitively only until the next Congress convenes."⁴ Moreover, recently released trade statistics indicate that pressures on Congress for protection from imports are not likely to abate any time soon. These statistics show that surging imports and stagnating exports produced a record \$33.3 billion trade deficit for the third quarter of 1984, up from \$25.7 billion in the second quarter. On November 8, the Commerce Department reported that the trade deficit for the first nine months of 1984 was \$113.2 billion. This compares to a trade shortfall of \$61.1 billion for all of 1983 and a full-year deficit of \$36.4 billion for 1982.⁵

The TTA has also been criticized by those who believe it went too far in protecting domestic U.S. industries from import competition. For example, representatives of the EC have already questioned the validity of several provisions under GATT. Others have complained that so-called technical changes in the antidumping and countervailing duty laws and in the escape clause (Section 201 of the Trade Act of 1974) are protectionist in nature and will increase the burden on imports into the United States. New retaliatory powers given to the President and the U.S. Trade Representative with respect to foreign trade practices that are perceived to be unreasonable are also a cause of concern to some foreign governments and U.S. importers. Finally, a few trade experts have raised questions over the expanded use of bilateral trade agreements which they see as a possible threat to multilateral arrangements and the most-favored-nation principle.

Companies and firms that are involved in international commerce need to familiarize themselves with the significant changes made by the TTA that relate to or affect their interests. This is not an easy task in view of the "omnibus" nature of this piece of legislation. The TTA consists of nine different titles that cover a wide range of trade matters. In addition to the important items that were covered, several very significant proposals relating to natural resource subsidies, downstream dumping, and non-market-economy countries were excluded. Since these excluded proposals are likely to be reconsidered by the new Congress, an understanding of what they would do is also essential.

It is clearly not possible in an article of this nature to discuss each and every provision of the TTA. Neither is it possible to cover every change that was made in existing law. What is attempted in the discussion that follows, however, is to give the reader some idea of the breadth of coverage of the TTA and to analyze some of its most important provisions. In addition,

4. See *Legal Times*, November 12, 1984, p. 21.

5. These trade statistics are based on figures released by the Commerce Department's Bureau of the Census.

there is also an analysis of some very important proposals that were ultimately omitted from the TTA, but which can be expected to be raised again in the new Congress.

II. Discussion of Significant Provisions (Including Proposals That Were Dropped)

A. TITLE I—TARIFF SCHEDULE AMENDMENTS

1. Duty Rate Reductions

This title incorporates a number of tariff bills that were pending in the Congress, most of which provided for duty reductions on specific products. The range of products covered is quite varied and includes such things as warp knitting machines, fresh asparagus, sulfathiazole, clock radios, hovercraft skirts, watch crystals, and certain benzenoid chemicals (more than seventy different products are dealt with in total).

2. Classification of Telecommunications Products

In addition to the various duty rate provisions, this title contains revisions to the tariff schedules with respect to the classification of telecommunications products. The revisions are based on Title II of the Telecommunications Trade Act of 1984 (S. 2618), on which no action was taken during the last session of Congress. The classification changes are designed to allow better monitoring of imports of telecommunications equipment and are seen by many as the first step in an effort to take broader action on such imports during 1985.

B. TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

1. Country of Origin Marking Requirements

Section 207 requires permanent markings showing the country of origin for imported pipe, pipe fittings, compressed gas cylinders, and manhole parts and assemblies. This provision, which was intended to improve the enforcement of the country of origin marking requirements, may create a problem for foreign exporters in meeting their U.S. customers' technical specifications. This result was apparently unforeseen, and an effort is underway to have the Customs Service ("Customs") resolve the problem in its regulations. In the meantime, arrangements have been made for continued shipments for 120 days with a stenciled or tagged mark of origin rather than a stamped mark.

2. Customs Brokers

Section 212 makes comprehensive changes in the regulation of customs brokers. The modified administrative structure rests on a new definition of

“customs business,” which can only be conducted by licensed brokers. New licensing and disciplinary procedures are also established.

3. *Trade Remedy Assistance Office*

Section 221 provides for the creation of a Trade Remedy Assistance Office at the International Trade Commission (“ITC”) that would disseminate information to the public on remedies and benefits under the trade laws, as well as give some guidance on procedures that must be followed. It also requires that the agencies responsible for administering the principal trade laws (the Commerce Department, ITC, and the U.S. Special Trade Representative’s Office) provide technical assistance to eligible small businesses in the preparation and filing of petitions and applications for remedies and benefits. This latter provision represents another effort by the Congress somehow to make the trade laws more accessible to small domestic businesses. Given the complicated nature of these laws and the fact that the agencies administering them cannot become partisans in proceedings in which they are frequently both the fact-finder and decision-maker, this provision will probably not make much real difference in the use of the trade laws by small businesses. A stronger provision, which would have created a small business advocate at the Commerce Department with the power to self-initiate antidumping and countervailing duty cases, was rejected by the House–Senate conferees.

4. *Foreign (Canadian) Advertising Expenses*

Section 232 was passed as a retaliatory measure against the denial in Canada of a tax deduction for advertising expenses paid to a U.S. radio or television station. (Canadian companies have traditionally advertised over U.S. radio and television stations in order to appeal to customers in certain border areas.) This section now precludes a tax deduction under U.S. law of advertising expenses paid to a foreign radio or television station if the foreign country denies a similar deduction for U.S. advertising.

5. *Copper Imports*

Section 247 contains a nonbinding “Sense of the Congress” provision urging the President to initiate negotiations with governments of copper-producing countries to reduce the level of copper imports into the United States through voluntary restraint agreements. This provision is a watered-down version of the one originally passed by the Senate that would have required the President to initiate such negotiations. The Senate was reacting to President Reagan’s rejection of such relief for the domestic copper industry in a recently concluded escape clause proceeding.⁶ Section 247 also

6. See “Copper Import Relief Determination,” 49 Fed. Reg. 35,609 (1984).

requests the President to submit a report to Congress explaining “(1) the results of his negotiations; or (2) why he felt it was inappropriate or unnecessary to undertake such negotiations.”

6. *The Escape Clause*

The escape clause, which is set forth in Sections 201–203 of the Trade Act of 1974,⁷ is amended by Sections 248 and 249 of the TTA. Section 249 deals with the criteria that the ITC is to consider in determining injury. The ITC is specifically directed to consider an increase in inventory levels maintained by domestic producers, importers, wholesalers or retailers when assessing the threat of serious injury. Section 249 also contains an admonition to the ITC that the presence or absence of any one injury criterion that it is required to evaluate should not necessarily be dispositive of whether there is serious injury or the threat of serious injury to a domestic industry. Finally, Section 249 refers to the term “significant idling of productive facilities” and makes clear that it “includes the closing of plants or the under-utilization of productive capacity.”

In addition to the specific amendments contained in Section 249, the House–Senate conferees in their report urged the ITC to disregard domestic industry profits derived from imports:

The Managers also believe that the Commission should, wherever possible, exclude profits derived from captive imports from the operations of the domestic industry. Profits from captive imports do not necessarily reflect the condition of production operations in the United States. Indeed, the decision of domestic producers to turn to foreign outsourcing may result in a loss of jobs and consequently have an adverse impact on employment or underemployment. . . .⁸

Section 248 of the TTA amends the procedures whereby Congress may disapprove an escape clause determination by the President. The new procedures are designed to conform to the Supreme Court’s *Chadha*⁹ ruling by substituting a *joint* resolution of disapproval, which would require the President’s signature and therefore could be vetoed, for a *concurrent* resolution, which does not require a presidential signature. In the event that a presidential determination is overturned by the Congress, the relief originally recommended by the ITC will become effective.

Sections 248 and 249 represent only two of eight major changes that were sought in the escape clause by the Senate conferees. The Senators were clearly displeased with the ITC’s decision rejecting relief under the escape clause for the domestic non-rubber footwear industry. They sought major

7. 19 U.S.C. §§ 2251–2253. The escape clause, which deals with fair (as opposed to unfair) trading practices, may be invoked by a domestic industry claiming serious injury substantially caused by an increase in imports.

8. H.R. REP. No. 1156, 98th Cong., 2d Sess. 142 (1984).

9. *INS v. Chadha*, 462 U.S. 919 (1983).

changes that would have strengthened the protections afforded against imports and which would, according to them, have resulted in a favorable ITC ruling for the domestic non-rubber footwear industry. The House conferees, however, were not interested in making major changes at such a late date, and the result was that only the provisions in Sections 248 and 249 were adopted. The Senate, led by Senator Danforth, who is Chairman of the Subcommittee on International Trade, can be expected to renew its fight for additional changes in the escape clause during 1985.

C. TITLE III—INTERNATIONAL TRADE AND INVESTMENT

This title, which incorporates into the TTA the so-called reciprocity legislation previously approved by the Senate on three different occasions, is very timely in that it increases the President's negotiating authority and strengthens his powers of retaliation just as preparations are being made for new GATT discussions on the further opening of national markets to international trade. Through passage of this title, Congress has clearly put added pressure on the President to adopt more activist policies on opposing foreign practices that restrict or impede U.S. exports.

The provisions of this title amend the Trade Act of 1974, which grants the President the authority to take action against "unjustifiable," "unreasonable," or "discriminatory" practices affecting U.S. commerce.¹⁰ Pursuant to the 1974 Act, the President can suspend, withdraw, or otherwise deny the benefits of trade agreement concessions with the foreign country involved, or impose duties, fees, and other import restrictions on the products and services of the foreign country. Action can be initiated on the President's own motion or upon the recommendation of the U.S. Trade Representative ("USTR") following the filing of a petition by an interested party requesting relief. The new amendments expand and strengthen the President's authority and powers in important respects as discussed below.

1. *Negotiating Authority*

New negotiating objectives are mandated for the purpose of (a) reducing or eliminating barriers or distortions in international trade in services;¹¹ (b) developing rules, including dispute settlement procedures, that will ensure

10. See Section 301 of the Trade Act of 1974, which is codified at 19 U.S.C. § 2411. This clause may be invoked through a petition to the U.S. Special Trade Representative requesting that the President take action in response to foreign government practices that are unreasonably or discriminatively restrictive of U.S. commerce. A major purpose is to deal with practices of foreign governments that affect U.S. exporters' access to foreign markets.

11. The term "services" is defined to include, but is not limited to, the following: banking, insurance, transportation, communications and data processing, retail and wholesale trade, advertising, accounting, construction, design, engineering, management consulting, real estate, professional services, entertainment, education and health care.

the free flow of foreign direct investment; and (c) removing impediments to the export of high technology products. If a reduction of barriers to high technology exports is not achievable, the President is authorized to obtain compensation for the effects of such barriers, with particular consideration given to the nature and extent of foreign governmental intervention affecting U.S. exports of high technology products or investments in high technology industries.

2. *Objectionable Practices and Barriers*

The new provisions very carefully enumerate foreign practices and barriers that are considered to be serious impediments to international trade. The objectionable practices include (a) restrictions on establishing or operating in foreign markets; (b) measures that deny national or most-favored-nation treatment or otherwise discriminate in favor of domestic industries within the foreign country; (c) the imposition of export performance requirements; (d) failure to provide adequate protection for rights in intellectual property (including trademarks, patents, and copyrights); (e) restrictions on the transfer of information into or out of a particular country; (f) restrictions on the use of data processing facilities within or outside of a particular country; and (g) measures that facilitate or encourage anticompetitive market practices or structures.

3. *Retaliatory Authority*

The President's authority to take remedial action against unfair trade practices is clarified and expanded. Through amendment of Section 301 of the Trade Act of 1974,¹² the President may now exercise his retaliatory authority with respect to any goods or sector "without regard to whether or not such goods or sector were involved in the act, policy, or practice identified" as being unjustifiable, unreasonable, or discriminatory.

With respect to services, the President is given very special powers to take what is considered to be effective retaliatory action. He can restrict the terms and conditions, or deny the issuance, of any license, permit, order, or other authorization issued under the authority of federal law that allows a foreign supplier of services access to the U.S. market in the service sector concerned. With this power the President can set aside a federal regulatory agency license, permit, or order. Such action can only be taken by the President, however, with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which a petition complaining of the particular barrier is filed or a determination to initiate an investigation with respect to such barrier has been made by USTR.

12. 19 U.S.C. § 2411.

In addition to the increased powers given the President, the authority of USTR is also expanded. USTR can now initiate investigations of possible unfair trade practices on its own, rather than waiting for the President to take action or for a petition to be filed by an interested party. Of even more importance, USTR can act on its own to impose duties or other import restrictions (including exclusion from entry) on the products or services of countries imposing export performance requirements. This direct grant of authority to USTR rather than to the President is designed to expedite action.

4. High Technology Duty Reductions

In furtherance of his negotiating authority relating to high technology products, the President is empowered for a five-year period to reduce or eliminate duties on the following high technology products: (a) transistors (TSUS Item No. 587.70), (b) diodes and rectifiers (TSUS Item No. 687.72), (c) monolithic integrated circuits (TSUS Item No. 687.74), (d) other integrated circuits (TSUS Item No. 687.77), (e) other components (TSUS Item No. 687.81), (f) parts of semiconductors (TSUS Item No. 687.85), and (g) parts of automatic data processing machines and units thereof (TSUS Item No. 676.52) other than parts incorporating a cathode ray tube.

5. Reports and Studies

Within one year after date of enactment of the TTA, USTR is required to submit to the House Ways and Means Committee and the Senate Finance Committee a report on trade barriers to U.S. exports. The report is to be revised and updated annually. It must contain a comprehensive inventory of acts, policies, and practices that constitute barriers to, or distortions of, U.S. exports of goods or services or foreign direct investment. USTR must include in this report "information with respect to any action taken (or the reason for no action taken) to eliminate any act, policy, or practice identified" in the report.

The Secretary of Commerce is charged with responsibility for collecting information and developing a data base on a wide variety of matters relating to services, including (a) policies of foreign governments toward service industries, (b) federal, state and local regulation of both foreign and U.S. suppliers of services, (c) the adequacy of current U.S. policies to strengthen the competitiveness of U.S. service industries, including export promotion activities, (d) tax treatment of services, (e) antitrust policies relating to services, and (f) treatment of services under international agreements. Beginning in 1986, the Secretary of Commerce is required to file reports with the Congress, on not less than a biennial basis, analyzing the information that has been collected.

D. TITLE IV—TRADE WITH ISRAEL

The President's basic *tariff* negotiating authority, provided in the Trade Act of 1974, expired in 1979. However, under current law the President may negotiate agreements harmonizing, reducing, or eliminating *nontariff* trade barriers. Statutes set out detailed procedures governing the timing and form in which these agreements are to be submitted to Congress for consideration. The President must notify Congress at least ninety days before the agreement is concluded, and, after negotiations are complete, submit a draft and explanation of the agreement as well as proposed implementing legislation. Congress must generally approve or disapprove the agreement within sixty days after its submission.

Title IV restores the President's authority to negotiate tariff agreements subject to this basic procedural framework, with some modifications. Israel is granted preferential treatment. Tariff agreements negotiated with Israel are not subject to the ninety-day advance notification provision. The President may also enter agreements for tariff reductions with other countries if negotiations are requested by other countries, and if the President notifies Congress of those negotiations at least one hundred fifty days before the President enters into any agreement (i.e., sixty days before the usual ninety-day advance notification provision is triggered). Failure to follow these requirements in negotiations with other countries will preclude the sixty-day period of expedited consideration.

The Senate had originally included Canada with Israel for special consideration. In conference, however, apparently because Canada has been involved in a number of minor trade disputes with the United States during the last several years, it was decided to treat Canada as any other country seeking free trade zone status.

E. TITLE V—GENERALIZED SYSTEM OF PREFERENCES (“GSP”) RENEWAL

Extension of the GSP program was a major goal of the Administration. Its great interest in this aspect of the legislation was probably one of the major reasons that the TTA was put together and passed in the waning hours of the last Congress. Renewal of GSP was opposed by organized labor, which actively attempted to scuttle the program. In addition, the Administration had to fight off efforts in the House to exclude the three biggest users of GSP—South Korea, Taiwan, and Hong Kong.¹³ Final passage was considered essential by the Administration as evidence of its continuing com-

13. To put overall usage in perspective, it should be noted that GSP imports accounted for approximately 4 percent of total U.S. imports and only .5 percent of U.S. consumption in 1983.

mitment to assist the economic growth of developing countries through liberal trade policies.

This title extends the GSP program for another 8½ years, through July 4, 1993. In addition to the extension, several significant modifications were made in the program. They are discussed below.

1. *Duty-Free Treatment*

The following new provision has been added as a fourth criterion for the President to consider in determining whether to extend duty-free treatment to eligible articles: "the extent of the beneficiary developing country's competitiveness with respect to eligible articles." In addition, the italicized language has been added to the first criterion: "the effect such action will have on furthering the economic development of developing countries *through the expansion of their exports.*"¹⁴

2. *Country Eligibility Criteria*

Hungary has been deleted from the list of ineligible countries, thereby making articles imported from Hungary eligible for GSP treatment.

The list of mandatory criteria rendering a country ineligible for GSP treatment, unless the President makes a national interest waiver determination, has been increased by the addition of the following provision: "if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country)." The term "internationally recognized worker rights" is defined to include

(A) the right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

This fairly strict language in the law is softened somewhat by the comment in the Conference Report that,

[i]t is the intention of the Conferees that this definition of internationally recognized worker rights be interpreted to be commensurate with the development level of the particular country.¹⁵

The factors that the President is to take into account in designating a country a GSP beneficiary (the so-called discretionary criteria) have also

14. The other two criteria as set forth in 19 U.S.C. § 2461 are "(2) the extent to which other major developed countries are undertaking a comparable effort to assist developing countries by granting generalized preferences with respect to imports of products of such countries; and (3) the anticipated impact of such action on United States producers of like or directly competitive products."

15. H.R. REP. NO. 1156, 98th Cong., 2d Sess. 157 (1984).

been expanded. The President is now to consider the following additional factors: (a) the extent to which such country has given assurances that it will refrain from engaging in unreasonable export practices (this appears to have been aimed at Chile and other copper-producing countries in the hope that they would restrain their copper exports and that world price levels would rise); (b) the extent to which the rights to intellectual property (including patents, trademarks, and copyrights) are protected (this appears to have been aimed at combatting counterfeited goods); and (c) the extent to which such country has taken action to reduce trade-distorting investment practices and policies (including export performance requirements), and to reduce or eliminate barriers to trade in services.

3. *Ineligible Articles*

Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel are added to the list of ineligible articles, which already included the following: textiles, watches, import sensitive electronics, steel and glass products and any other article designated "import sensitive."

4. *Graduation*

New competitive need limitations are established that require all countries currently eligible for GSP treatment to be limited to the lesser of a \$25 million import maximum, or 25 percent of total imports, with respect to an eligible product by January 4, 1987. The \$25 million limit is based on the value of the dollar in 1974. Currently the competitive need limit is \$50 million in 1974 dollars (equivalent to \$57.7 million in 1983) or 50 percent of the total product imports. The President is given authority to raise the competitive need limitation back up to \$50 million (in 1974 dollars) or 50 percent of imports or more in 1987 if he determines that it is in the United States "national economic interest" to do so and that no U.S. industry is likely to be hurt by the increase. The President may authorize an increase greater than the \$50 million or 50 percent limit only where (a) there has been an historical preferential trade relationship with the country in question, (b) there is an economic treaty or trade agreement in force with such country, and (c) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, U.S. commerce.

An overall restriction is placed on this waiver authority, however, which limits such increases to no more than 30 percent of the total value of GSP imports registered in the preceding year. Additionally, no more than half of the 30 percent waiver authority can be used for countries that have shipped more than 10 percent of total GSP products in the prior year or have a per capita gross national product above \$5,000. The most recently published World Bank statistics, which are for 1982, show that Israel, Hong Kong, Singapore, and Trinidad and Tobago fall within the latter criterion, that is,

they have per capita GNP's exceeding \$5,000. On the other hand, Taiwan, South Korea, and Hong Kong would come within the 10 percent criterion.

The new provisions in this title also establish a procedure whereby a determination is to be made when a country's per capita gross national product reaches or exceeds \$8,500. Such countries are to be graduated from GSP treatment by the end of the two-year period following that determination. Benefits for these countries, however, will automatically be reduced to the \$25 million or 25 percent level following such determination. The \$8,500 cut-off level is to be indexed each year by 50 percent of the annual change in the U.S. gross national product. It appears that currently no GSP-eligible country is above the cut-off level.

5. *Least Developed Developing Countries*

Countries that are determined by the President to be "least developed developing countries" are exempted from competitive need limits. Such countries are also exempted from the 50 percent import penetration limit with respect to articles not produced in the United States as of January 1 of the year in which the 50 percent penetration was achieved. Finally, the level for "de minimis" barriers was raised from an import value of \$1 million to \$5 million.

F. TITLE VI—AMENDMENTS TO THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

The two principal import relief laws that deal with unfair trading practices are the antidumping and countervailing duty statutes.¹⁶ The substantial trade deficits of the past few years have adversely affected many domestic industries which, as a result, have sought to strengthen the protections afforded against unfairly priced or subsidized imports by these two laws. After it appeared that Congress might actually pass a trade bill before adjourning, a number of proposals were made for changes in the antidumping and countervailing duty laws. The Administration opposed major modifications that it felt would skew the trade remedy program too far in the protectionist direction. The Administration's spokesman, U.S. Trade Rep-

16. 19 U.S.C. §§ 1671-1677g. Under the antidumping law, it is an unfair trade practice for a foreign producer to sell a product in the United States at a lower price (*ex factory*) than that product is sold in the producer's home market when such sales injure, threaten to injure, or impede the establishment of a domestic industry. Under the countervailing duty law, it is an unfair trade practice for a foreign government to subsidize a product that is exported to the United States. In cases where the product comes from a country that has signed the GATT Subsidies Code or has given a comparable undertaking, injury to the domestic industry caused by the subsidized product must also be shown. For detailed analyses of the amendments to the AD/CVD laws, see Bello & Holmer, *The Trade and Tariff Act of 1984: Principal Antidumping and Countervailing Duty Provisions*, 19 INT'L LAW (forthcoming Spring, 1985).

representative Brock, strongly opposed and was ultimately successful in convincing Congress to drop provisions relating to so-called natural resource subsidies and to downstream dumping. On the other hand, some compromise was necessary if the Administration was to get the much-sought-after GSP extension and Israel free trade legislation. As a result, a comprehensive series of changes in the antidumping and countervailing duty laws were adopted that, taken as a whole, should substantially improve the position of domestic industry petitioners seeking duties against dumped or subsidized imports. These changes, as well as the major proposals that were rejected for purposes of the TTA but are likely to be reconsidered in the new Congress, are discussed below.

1. *Changes that Were Adopted*

(a) Clarification of Coverage

The antidumping law refers to merchandise that is "sold" and the countervailing duty law refers to merchandise that is "imported." This amendment makes clear that cases under both laws may be filed on the basis of sales for future delivery, irrevocable offers, likely sales, and leasing arrangements that are the equivalent of sales, as well as on the basis of imports that have already occurred.

(b) Settlement Agreement Authority

An antidumping or countervailing duty investigation may currently be suspended at any time before a final determination if the government of the subsidizing country agrees, or exporters who account for substantially all of the imports of the subsidized or dumped merchandise agree (1) to eliminate the subsidy entirely or to offset completely the amount of the net subsidy on exports to the United States within six months after the suspension; (2) to raise the price completely to eliminate any dumping margin; or (3) to cease exports of the merchandise to the United States within six months after the suspension.¹⁷ New amendments to this settlement authority (1) require verification when the basis of a settlement agreement is an "offsetting" tax or other important government action to eliminate subsidies or dumping; (2) require the consideration of various public interest factors and comments from interested parties before an antidumping or countervailing case may be terminated or suspended on the basis of a quantitative restriction agreement; (3) authorize the unilateral termination of cases self-initiated by the Commerce Department; and (4) require notification of the Commissioner of Customs if evidence is found of an intentional violation of a quantitative restriction agreement.

17. 19 U.S.C. §§ 1671c and 1673c.

(c) Consultations Relating to Quantitative Restriction Agreements

Commerce or the ITC will review suspension agreements whenever information or a request is received showing changed circumstances sufficient to warrant a review. If the ITC determines that a suspension agreement no longer eliminates completely the injurious effect of imports, Commerce and the ITC will proceed with the investigation as if the agreement had been violated on that date. Previously there was no provision of law requiring negotiations to eliminate the dumping margin or subsidy while the agreement was in effect, or requiring the imposition of antidumping or countervailing duties upon its expiration equal to any remaining injurious dumping or subsidy. Amendments were adopted that require the President, within ninety days after any quantitative restriction agreement becomes effective, to enter into consultations seeking to eliminate or reduce the dumping or subsidy. Moreover, antidumping or countervailing duties in the amount of any residual dumping margin or subsidy may now be applied to injurious imports as a replacement for the quantitative restriction agreement if it expires.

(d) Persistent Dumping Procedure

There has been no formal requirement that Commerce monitor imports of products subject to existing antidumping duty orders to determine whether self-initiation of cases against additional suppliers is warranted. An amendment was adopted providing for such monitoring for a period of up to one year if (1) more than one antidumping duty order is in effect with respect to the particular product; (2) in Commerce's judgment there is reason to believe or suspect "an extraordinary pattern of persistent injurious dumping from one or more additional supplier countries"; and (3) in Commerce's judgment such extraordinary pattern is causing a serious commercial problem for the domestic industry. If, during such a period of monitoring, Commerce determines that there is sufficient information to commence an investigation relating to an additional supplier country, it is directed to self-initiate such an investigation immediately.

(e) Upstream Subsidies

The term "subsidy" has never been explicitly defined to include or exclude subsidies bestowed on products at prior stages of manufacture or production, although recent countervailing duty determinations by the Commerce Department have indicated some degree of coverage of subsidies at prior stages of manufacture or production. Through amendment, Congress has attempted to address upstream subsidies by building on existing law. The basic test adopted is whether the subsidization of a significant input or component of the exported product enables the manufacturer of the

exported product to purchase that input or component at a lower price than the manufacturer would otherwise pay for the product in an arm's length transaction. To the extent that it does, the value of this upstream subsidy may be added to the overall benefit that will be countervailed. Explicit statutory recognition of upstream subsidies is obviously designed to improve the protection afforded to domestic industries under the countervailing duty law, but the value to petitioners will ultimately depend on how this concept is implemented by the Commerce Department.

(f) Cumulation

In making its injury determinations in antidumping and countervailing duty cases, the ITC is required to assess both the volume of imports of the product under investigation and the consequent effects of such imports.¹⁸ Over the years, in situations where the ITC has had before it cases involving imports of the same product from several different countries, the question has arisen whether the ITC must look at each case separately or whether it can consider the "cumulative" impact of all of the imports in question. This issue has been dealt with in the past on a case-by-case basis with each Commissioner making his or her own decision whether to cumulate. Under the new provisions added by amendment, the ITC must cumulate imports from various countries if the following three conditions are met: (1) the imports are subject to investigation, (2) the imports compete with each other and with the domestic like product, and (3) the imports are marketed within a reasonably coincidental period.

The new mandatory cumulation provision clearly benefits domestic industry petitioners in that the ITC is now more likely to find injury in situations where various countries each account individually for a small percentage of total U.S. market penetration. Some Administration officials have expressed concern about this new provision, based in part on the fear that domestic industries may use the change in the law to file cases against foreign countries that might not be winnable if they were taken up one by one. There are even indications that the Administration might seek repeal of the cumulation provision in the new Congress.

(g) Threat of Material Injury Criteria

The ITC does not have to find actual material injury to a domestic industry, but may make an affirmative determination on the basis of a threat of material injury to the relevant domestic industry.¹⁹ Congress believes that the "threat" ground for an affirmative determination should be taken very

18. 19 U.S.C. § 1677(7)(B).

19. 19 U.S.C. §§ 1671d(b)(1)(A)(i) and 1673(2)(A)(ii).

seriously, as the following language from the House–Senate Conference Report evidences:

The Managers believe that an effective threat of material injury provision is a vital element of the antidumping and countervailing duty laws of the United States. The purpose of the threat provision is to prevent actual material injury from occurring.²⁰

As a result of this congressional concern, the following specific new criteria have been added for the ITC to consider in determining whether there is a threat of material injury to a domestic industry: (1) the nature of the subsidy involved in countervailing duty cases, particularly whether it is an export subsidy; (2) any increase in production capacity or existing unused capacity likely to result in a significant increase in exports of the merchandise; (3) any rapid increase in the U.S. market penetration and the likelihood that such penetration will increase to an injurious level; (4) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices; (5) any substantial increase in inventories of the merchandise in the United States; (6) the presence of underutilized capacity for producing the merchandise in the exporting country; and (7) the potential for product shifting among production facilities.

(h) Interested Parties

An amendment was adopted expanding the definition of interested party so that antidumping and countervailing duty petitions may be filed by coalitions of firms, unions, or trade associations in which a majority of the individual members would have standing. The House–Senate Conference Report sums up the purpose of this amendment:

The purpose of the amendment is to broaden the class of an interested party which has standing to file petitions under the countervailing duty or antidumping laws. This standing requirement would be met as long as a majority of the combined membership of the coalition individually meets the standing requirements under present law and represents the industry producing the like product. This provision is intended to overturn the decision of the Court of International Trade in *Matsushita Electrical Co. v. United States*, 529 F. Supp. 664 (CIT 1981).²¹

(i) Simultaneous Investigations

Antidumping and countervailing duty investigations follow their own separate timetables, and each requires its own injury hearing and determination by the ITC. Under the new amendments, if investigations are initiated pursuant to both laws within six months of each other with respect to the same merchandise from the same country, only one ITC injury

20. H.R. REP. NO. 1156, 98th Cong., 2d Sess. 174 (1984).

21. *Id.* at 175.

hearing would be required. In addition, where a countervailing duty investigation is initiated simultaneously with an antidumping investigation on the same merchandise from the same country or countries, Commerce is required, if requested by the petitioner, to extend the date for the final countervailing duty determination to the date of the final antidumping investigation.

(j) Verification

An amendment was adopted providing for an expedited procedure, upon waiver of verification, for preliminary determinations in countervailing duty cases. This is consistent with the procedure that has been available in antidumping cases.

Verification of information submitted in connection with annual administrative reviews of outstanding antidumping and countervailing duty orders was also addressed by way of amendment. Pursuant to Section 618, verification of such information is required if requested by an interested party, with the qualification that "no verification was made . . . during the two immediately preceding reviews" unless "good cause for verification is shown."²²

(k) Judicial Review

All interlocutory judicial reviews by the U.S. Court of International Trade during the course of antidumping and countervailing duty investigations are eliminated. All challenges to agency determinations are to be combined and reviewed by that court after final agency action has been taken. Any agency action that specifically excludes any company or product may, at the option of the appellant, be treated as a final negative determination and be appealed within thirty days of publication. There is also an amendment which clarifies that a final affirmative determination by Commerce may be contested when the appeal challenges a negative determination by the ITC predicated on the size of the dumping margin or net subsidy.

(l) Assessment of Countervailing Duties

In an effort to lessen the burden on Commerce that results from having to implement company-specific rates, an amendment was adopted allowing Commerce presumptively to apply a countervailing duty order on a country-wide basis. A countervailing duty order may still provide for differing rates, however, where either Commerce determines that there is a significant differential between companies receiving subsidy benefits or a state-owned enterprise is involved.

22. Note that the statutory language is different from that reported in Conference Report, *see id.*, at 77.

(m) Annual Administrative Reviews

Administrative reviews, updating dumping and subsidy amounts, have been required at least once during each twelve month period following publication of an antidumping duty or countervailing duty order.²³ An amendment was adopted changing that procedure so that such annual administrative reviews will be conducted only upon request. The purpose of this change is to limit the number of reviews in cases in which there is little or no interest, thus reducing the burden on petitioners and respondents, as well as on the Commerce Department. This change should also facilitate the revocation of orders that are no longer of interest to domestic interested parties.

(n) Revocation

An amendment was adopted tightening revocation procedures by specifically placing on the party seeking revocation of an antidumping order the burden of persuading the ITC that in light of changed circumstances revocation of the order will not result in material injury or threat of material injury to the domestic industry. In taking this action, Congress was reacting to the Court of International Trade's decision in the *Matsushita* case,²⁴ which overruled the ITC's determination that the domestic television industry would be threatened with material injury if the antidumping duty order on Japanese television sets were revoked. The court held that the ITC's review "failed to establish the continuing need for the injury determination," reasoning that "when the continued necessity for the antidumping duty is placed in question by a change in circumstances, the review required by section 751(b) must either find reason for continuation of the duty or lead to revocation." According to the House-Senate conferees, "the *Matsushita* decision incorrectly places the burden of persuasion on the domestic industry."²⁵ The conferees make clear that the language being added is intended to place that burden on the party seeking revocation "in the sense that at the end of the investigation, the ITC must be convinced that revocation of the order is appropriate."²⁶

(o) Conditional Payment of Countervailing Duties

When an antidumping duty order is outstanding with respect to particular merchandise, a prior deposit of estimated antidumping duties must be made with Customs on all entries or removal from warehouse of that merchandise.²⁷ An amendment was adopted adding a similar provision requiring that

23. 19 U.S.C. § 1675.

24. *Matsushita v. United States*, 569 F. Supp. 853 (CIT 1983).

25. H.R. REP. NO. 1156, 98th Cong., 2d Sess. 182 (1984).

26. *Id.*

27. 19 U.S.C. § 1673g.

estimated countervailing duties be deposited with respect to merchandise subject to a countervailing duty order.

(p) Adjustments Study

The Secretary of Commerce is required to undertake a study of current practices that are applied in making adjustments to purchase price, exporter's sales price, foreign market value, and constructed value in determining dumping duties. This study must be completed within one year and is to include the Secretary's recommendations on the need to simplify current adjustment practices.

(q) Special Provision for Grape Growers

For a period of two years, grape growers are given standing to file antidumping or countervailing duty petitions against wine imports even though grapes are not a "like product" to wine. This provision remains controversial, even though it is substantially weaker than the Senate proposal that would have allowed any and all raw agricultural producers to have the same benefits as the grape growers. The Commission of the European Community has already indicated that it believes this provision violates international trade rules by broadening the definition of the wine industry for purposes of antidumping and countervailing duty cases.

2. *Provisions that Were Not Adopted*²⁸

(a) Natural Resource Subsidies

The Trade Remedies Reform Act (H.R. 4784), which was passed by the House of Representatives, specifically targeted natural resource subsidies. Under that bill, a natural resource subsidy would exist when a natural resource price controlled or regulated by a government (1) is lower for domestic use than the export price or the fair market value, (2) is not freely available to U.S. purchasers for export, and (3) constitutes a significant component cost of the product under investigation. According to the House Ways and Means Committee staff, the drafters of this provision were particularly concerned with Mexico. Although an upstream subsidies provision was included in the TTA, this specific effort to allow domestic industries to obtain countervailing duties based on foreign supplies of cheap natural resources was narrowly defeated when Senate conferees narrowly voted to delete (4-3), and the House conferees receded to their view. Knowledgeable observers expect a renewed push, under the leadership of Russell Long, the ranking Democrat on the Senate Finance Committee, to pass this provision in the new Congress in 1985.

28. For an analysis of the unadopted provisions, see Holmer & Bello, *The Trade and Tariff Act of 1984: The Road to Enactment*, 19 INT'L LAW. (Winter 1985).

(b) Downstream Dumping

Both Senate and House bills contained provisions on so-called downstream dumping (which more accurately should be referred to as upstream dumping). For downstream dumping to occur under these proposals, a component used in the manufacture or production of merchandise must have been purchased at a price below its foreign market value—that is, the purchase price of the component must be lower than its generally available price in the country of manufacture or the generally available price must have been artificially depressed by subsidy. The amount attributable to downstream dumping would be added to the countervailing or antidumping duty on the final product. Although the Administration was successful in eliminating such a provision from the TTA, proposals on downstream dumping are expected to be reintroduced in the new Congress in 1985.

(c) Non-Market-Economy Countries

With increased trade between the United States and certain communist countries during the last few years, most notably the People's Republic of China, which was granted most-favored-nation trading status, the question has arisen of how best to determine home market prices in antidumping cases involving these countries. There has evolved a special procedure for so-called non-market-economy countries which rejects pricing data from these countries themselves as being inherently unreliable and makes use of surrogate country pricing data or constructed value.²⁹ This procedure has been criticized as lacking in predictability (there can be great differences in results depending on what surrogate country is used) and putting a substantial burden on the Commerce Department and the parties. The trade bill as passed by the Senate contained a provision addressing this issue that would have established a dumping trigger price equal to the trade weighted average price of foreign market economy producers, excluding any that had been found to be dumping or benefiting from subsidies and excluding U.S. producers. The Administration opposed this approach as being too protectionist and was successful in getting it eliminated from the TTA. The problem of how best to deal with non-market-economy countries remains, however, and Congress will undoubtedly be presented with a variety of proposals in 1985.

G. TITLE VII—APPROPRIATIONS AUTHORIZATIONS

This title authorizes the following appropriations for fiscal year 1985: (1) ITC \$28,410,000; (2) U.S. Customs Service \$686,399,000, of which

29. U.S.C. § 1677b(c). For a comprehensive article on this subject, see Horlick & Shuman, *Nonmarket Economy Trade and U.S. Antidumping/Countervailing Duty Laws*, 18 INT'L LAW. 807 (1984).

\$28,070,000 is for operation of the air interdiction program and no more than \$11,000,000 can be used for “Operation Exodus” and related export control programs; and (3) USTR—\$14,179,000.

H. TITLE VIII—STEEL

1. *Enforcement Authority*

This title provides the President with the needed authority to enforce quantitative limitations, restrictions, and other terms that may be contained in bilateral steel agreements negotiated with steel-exporting nations. As a specific enforcement tool, the President may require valid export licenses as a condition for entry of foreign steel into the United States. President Reagan had earlier announced that he would be seeking to reduce steel import penetration levels to 18.5 percent (excluding semifinished steel). Included in this title is a nonbinding “Sense of the Congress” provision that the market share of steel imports should be in the range of 17 to 20.2 percent.

2. *Annual Renewal Criteria*

For a period of five years the President’s enforcement authority is subject to annual renewals upon presidential determinations that the major U.S. steel companies, taken as a whole, have committed substantially all of their net cash flow from steel operations to reinvestment and modernization of their steel operations and worker retraining programs and have taken sufficient action to maintain their international competitiveness. The President must also determine that each of the major U.S. steel companies, during the applicable twelve month period, has committed not less than one percent of net cash flow to worker retraining. This latter requirement may be waived by the President if he finds that unusual economic circumstances exist with respect to a particular company. According to the House–Senate Conference Report, “[t]his waiver authority is not designed to allow companies to avoid the 1% retraining commitment, but is designed to allow the President’s general enforcement authority to renew for another year when unusual economic circumstances justify a particular company’s commitment of less than 1% of net cash flow to retraining.”³⁰

I. TITLE IX—WINE

This title, which is based on similar provisions in both House and Senate bills, requires USTR to designate major wine-trading countries that are significant potential markets for U.S. wine and maintain tariff and nontariff

30. H.R. REP. NO. 1156, 98th Cong., 2d Sess. 203–204 (1984).

barriers to (or other distortions of) U.S. wine trade. USTR must then consult with each of these countries to seek reduction or elimination of its barriers or other distortions of trade in U.S. wine. The President is required to take retaliatory action, "if appropriate," under Section 301 of the Trade Act of 1974³¹ if USTR's consultations do not result in a reduction of barriers. Within thirteen months after the TTA becomes law, the President is required to submit a report to the House Ways and Means Committee and the Senate Finance Committee that will include (1) a description of each trade barrier found, (2) an assessment of the extent to which each barrier is subject to a trade agreement, (3) actions taken to eliminate or reduce such barriers (including the reasons therefor), and (4) recommendations to the Congress on any additional authority or actions that are necessary or appropriate.

The Commission of the European Community has taken strong exception to these special wine provisions. According to the Commission, such provisions, aimed at achieving reciprocity in a single sector by means of protectionist pressures against U.S. imports of wine from the EC, are "contrary to the very concept which is the foundation of the open trading system established in the framework of the GATT, namely the concept of overall reciprocity."³² Representatives of the Commission have hinted at EC retaliation against U.S. agricultural products.³³

In addition to the trade barrier provisions, this title authorizes the use of \$175 to \$190 million of Commodity Credit Corporation funds to promote wine export activities.

III. Conclusion

The TTA is both complex and comprehensive, and the changes that it effects in existing laws will undoubtedly have a substantial impact on international trade. Importers, exporters, foreign producers and domestic firms that compete with imports must all be concerned with the TTA and how it will affect their operations and business. Moreover, if substantial U.S. trade deficits persist, as they presently give every indication of doing, the TTA could be only the first step in a series of congressional actions responding to that deficit. In sum, the legal situation in the United States with respect to international trade matters is uncertain and changing, and there should be substantial opportunities as well as dangers for those with a stake in the outcome.

31. 19 U.S.C. § 2411.

32. As reported in the Bureau of National Affairs' *INT'L TRADE REP.*, Vol. 1, p. 561, (Nov. 7, 1984).

33. *Id.*

EXHIBIT 64

International Trade Practice § 33:1

International Trade Practice | August 2024 Update
Jerry Cohen, Matthew McCullough

Part V. Enforcement and Litigation

Chapter 33. Substantive Elements of Section 301

§ 33:1. Standards for action under section 301

References

Four bases exist for action under Section 301 of the Trade Act of 1974 (“§ 301”).¹ A claim may be based on one, or a combination thereof, of the following claims:

- (a) that U.S. rights under a trade agreement “are being denied”;
- (b) that an act, policy or practice of a foreign country violates, or is inconsistent with trade agreement obligations;
- (c) that an act, policy or practice of a foreign country is unjustifiable and burdens or restricts U.S. commerce; or
- (d) that an act, policy or practice of a foreign country is unreasonable or discriminatory acts and burdens or restricts U.S. commerce.

If the United States Trade Representative (“USTR”) reaches an affirmative finding under one of the first three basis for action, § 301 requires that USTR take *mandatory* retaliatory action. A § 301 claim based on the “unreasonable or discriminatory” provision, however, grants USTR the *discretion* in deciding whether to take retaliatory action. Each basis for a claim under § 301 is reviewed in turn below within the framework of USTR’s mandatory and discretionary authority to take retaliatory action.

Mandatory action

If the USTR reaches an affirmative determination upon completion of an investigation based upon one of the first three bases for a complaint noted above, § 301(a) mandates that retaliatory action be taken.²

Congress instituted the mandatory retaliation provision as part of the 1988 Trade Act, based in part upon a perception that USTR had failed to utilize § 301 effectively. Congress therefore determined that a more certain response was needed to preserve U.S. rights under trade agreements.³ Thus, in 1988 Congress required *mandatory* action under § 301 when a case concerns violations of trade agreements or unjustifiable acts.

Enforcement of U.S. rights under a trade agreement

As part of the 1979 amendments to § 301, Congress added a provision that allowed the President to take action “to enforce the rights of the United States under any trade agreement.”⁴ This amendment highlighted that § 301 primarily was intended to remedy unfair government action. The focus on trade agreements again surfaced in 1988 when Congress mandated retaliatory action for violation of trade agreements. Congress established that claims which arise when the rights of the United States under any trade agreement need to be enforced should be the first basis for mandatory action.⁵

Brief review of this provision immediately raises the issue of the definition of a “trade agreement” for purposes of this provision. Unfortunately, the statute is silent as to which agreements provide a suitable basis for action under this provision. Nevertheless,

general conclusions respecting the scope of “trade agreements” for purposes of this provision can be drawn from USTR's past interpretation of the provision.

For the most part, USTR has construed the term “trade agreements” for purposes of this provision narrowly. Specifically, only GATT/WTO agreements⁶ and agreements approved under the MTN Codes⁷ are consistently included within the term “trade agreement.” USTR, however, at times in the past also found that bilateral trade-related agreements are considered “trade agreements” for purposes of this section.⁸ Some commentators also maintain that “informal or hortatory agreements” are “trade agreements” for purposes of § 301(a)(1)(A).⁹ Important, as yet, USTR has not adopted this broader interpretation of the phrase “trade agreement.” In addition, several commentators have rejected the more expansive interpretation.¹⁰

For this element of § 301, it is not necessary to demonstrate that a burden or restriction on U.S. commerce exists. Indeed, the statute requires that mandatory action be taken if a violation under this provision of § 301 is found. As such, the statute establishes an irrefutable presumption that a violation of an agreement operates as a burden or restriction on U.S. commerce.¹¹ Thus, under this provision of § 301, USTR only needs to find that U.S. rights under a trade agreement are being denied. If USTR makes this determination, then the statute mandates that USTR take retaliatory action.¹²

It is not clear in what respect Congress intended this provision to differ from a claim requesting action under § 301(a)(1)(B)—an act that is inconsistent with, or denies U.S. benefits under, any trade agreement. Petitions that cite both provisions also fail to provide supporting arguments that could provide some clue as to how one element is distinguishable from the other. As discussed below, it may be that § 301(a)(1)(B) simply sets a lower threshold for raising a claim under § 301. Yet, as a practical matter, when a § 301 action involves a trade agreement both provisions often are cited as the bases for the § 301 claim.¹³

Response to acts that are inconsistent with trade agreements obligations

In response to an act, policy, or practice of a foreign government that is inconsistent with, or denies benefits to the United States under any trade agreement, the statute also requires USTR to take mandatory retaliatory action.¹⁴

As noted above, a claim under § 301(a)(1)(B) is particularly difficult to distinguish from a claim under § 301(a)(1)(A). If one is cited as the basis for a claim, it is likely the other will be cited as a basis as well. Although self-evident, claims under both provisions of § 301 also must involve trade agreements. Thus, in most respects, a claim under this provision of § 301 is tantamount to a § 301(a)(1)(A) claim.

Notwithstanding this introductory principle, there are some fine distinctions peculiar to § 301(a)(1)(B) claims worth noting. For instance, the phrase “denies benefits” implicitly contemplates a broader spectrum of actionable practices than does the “denial of rights” under a trade agreement. That is, while a foreign government may not be in strict violation of a particular trade agreement, it may nevertheless act to deny benefits that should be afforded to the United States by otherwise distorting the reciprocal balance negotiated in the Agreement.¹⁵ In these instances, USTR may effectively use the “denial of benefits” provision. Yet, on the other hand, the statute in this scenario prevents USTR from reviewing a claim under § 301(a)(1)(A), the denial of rights under a trade agreement. Thus, in some respects, the provision may be viewed as the U.S. statutory equivalent to GATT Art. XXIII, which provides for the ability to complain about the “nullification or impairment” of benefits, whether or not the act conflicts with provisions of the trade agreement.¹⁶

Also, consistent with the broader scope of this provision, USTR has interpreted the notion of “benefits” under trade agreements expansively. Rather than requiring strict adherence to the language pertaining to “benefits” in the trade agreement at issue, USTR has adopted a “common notion of fairness” test to discern which “benefits,” if any, may be impeded.¹⁷

Finally, the statute does not require explicitly that petitioner or USTR demonstrate that U.S. commerce is burdened or restricted. In operation, however, the provision necessitates such a showing. This results because to establish a claim under this provision, the petitioner or USTR must demonstrate the manner in which the foreign government has acted inconsistently with its obligations under the trade agreement, or the manner in which the foreign government has denied benefits under the trade agreement. To do so, the petitioner or USTR must demonstrate that U.S. interests experienced reduced sales, or that other

advantages are impeded either in the foreign country's market or in third country markets.¹⁸ The provisions of the international agreement, of course, will dictate the precise nature of the arguments needed to establish that benefits are being denied.

Response to unjustifiable acts

As the third ground for mandatory action, a § 301 action may be based on the allegation that an act, policy, or practice of a foreign country is “unjustifiable and burdens or restricts U.S. commerce.”¹⁹ The statute provides that acts, policies, or practices that are “unjustifiable” “include those which violate, or are inconsistent with, the international legal rights of the United States.”²⁰ According to the statutory definition, the denial of national or most-favored-nation treatment or the right of establishment or protection of intellectual property rights should be considered “unjustifiable” acts, practices, or policies.²¹

The broad precepts delineated in the latter portion of the statutory definition suggest that an “unjustifiable” claim can be based on alleged violations of U.S. rights under sources other than trade agreements. Some commentators even argue that specific sources other than trade agreements should be considered as the basis for an “unjustifiable” claim.²² These other sources or “soft laws” include treaties of friendship, commerce and navigation (so-called “FCN treaties”),²³ international declarations, resolutions, OECD decrees, and other internationally accepted standards. Recently, several § 301 petitions have presented claims under this provision utilizing various forms of “soft law” as the bases for the claims.²⁴

Finally, unlike the first two grounds for mandatory action under § 301 discussed above, the “unjustifiable” provision explicitly requires USTR to reach an affirmative finding that the alleged act “burdens or restricts U.S. commerce.” The rationale for inclusion of this additional element should be self-evident. And that is, claims that are based on agreements other than trade agreements, *i.e.*, claims that are based on “soft law,” require stricter scrutiny than violations of actual trade agreements.

Injury standard—Burden or restrict U.S. commerce

The “unjustifiable” provision is the only one of the three bases for mandatory action that requires satisfaction of an additional injury element.²⁵ According to the statute, the injury element requires a showing that the act, policy, or practice at issue “burdens or restricts United States commerce.”²⁶ The statute is silent, however, as to what this standard entails.

Nevertheless, in general, the standard is considered less stringent than the injury tests in various other U.S. trade statutes.²⁷ Having said this, however, the § 301 injury test is not a mere formality. In several recent instances, USTR has discontinued or failed to initiate § 301 investigations because the petitioner failed to demonstrate there was a “burden” on U.S. commerce.²⁸

With respect to the injury standard under § 301 itself, petitioner typically must show either increased imports into the United States or lost market opportunities in foreign countries as a result of the foreign government's action.²⁹ Declining U.S. export sales in third country markets or the market in the foreign country under investigation is sufficient to demonstrate a “burden” on U.S. commerce. This methodology, the displacement of U.S. export sales, is also the one most frequently used to demonstrate a “burden” on U.S. commerce.³⁰ Inadequate protection of intellectual property rights may also be sufficient to establish that U.S. commerce is burdened.³¹ Finally, as a practical matter, it is worth noting that there is no distinction between “burden” and “restriction.”³²

Exceptions to mandatory action

The statute requires mandatory action in response to the three elements of § 301 that concern trade agreements. Yet, several statutory provisions potentially dilute the mandatory nature of this statutory requirement. First, the mandatory action must be formulated in a manner such that the goods or services of the foreign country are affected in an amount equivalent in value to the burden or restriction being imposed on U.S. commerce.³³ This provision operates as a procedural limit on the scope of the retaliatory action that USTR can take.

More importantly, the statute specifically provides that in certain circumstances USTR may take an “exception” from the mandatory action requirement. In short, the statute provides that USTR can take an exception to mandatory action whenever one of the following scenarios arise: (i) the WTO Dispute Settlement Body finds that U.S. rights or benefits under any trade agreement are not being violated or denied; (ii) the foreign country is taking satisfactory measures to grant the U.S. its rights under the agreement; (iii) the foreign country agrees to eliminate or phase out the violative act, policy, or practice; (iv) the foreign country agrees to provide compensatory trade benefits; (v) taking the contemplated action would have a substantial and disproportionate impact on the U.S. economy; or (vi) where retaliation would cause serious harm to U.S. national security.³⁴

Although the 1984 and 1988 amendments to § 301 drastically diminished the flexibility afforded the USTR in reaching determinations, these exceptions may restore some of the flexibility USTR had under § 301 as originally conceived.

Discretionary action

In response to acts, policies, or practices of a foreign government that are deemed “unreasonable or discriminatory” and that “burden or restrict U.S. commerce,” the USTR has discretion in deciding whether and how to respond.³⁵

General definition of “unreasonable”

Not surprising, the general definition of “unreasonable” provided in the statute is exceptionally broad and vague. According to the statute, if an act, policy, or practice “while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable” then it is deemed unreasonable.³⁶ In essence, this allows USTR to retaliate against practices it finds impede notions of fairness in international trade. Truly, this is broad authority.

Some may argue that this broad mandate grants USTR the opportunity to establish its own unilateral standards of fairness in international trade.³⁷ While this may be the case, there are some statutory constraints that limit USTR's ability to exercise its authority unchecked. Section 301(d)(3)(D) requires USTR to consider the extent to which reciprocal opportunities in the United States exist for foreign nationals and firms.³⁸

Specific statutory examples of “unreasonable”

As part of the 1988 Trade Act, Congress amended § 301 to include three specific examples of acts, policies, or practices that are “unreasonable.”³⁹ Specifically, Congress added provisions specifying that export targeting, the denial of worker rights, and the toleration of anticompetitive activities are “unreasonable” acts, policies, or practices. The inclusion of these three provisions signaled Congress' concern that these activities detrimentally effect U.S. industries. Each of these specific definitions of unreasonableness is reviewed separately below.

Export targeting

Congress provided that USTR could take action against export targeting which burdens or restricts U.S. commerce.⁴⁰ Congress also defined “export targeting” to mean, “any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind or merchandise.”⁴¹ As yet, no § 301 cases have utilized the export targeting provision.

Also, with respect to the export targeting provision, Congress amended § 301 such that if after an investigation USTR determines not to take action, then it must establish a private sector panel to report on appropriate measures to promote the affected domestic industry's competitiveness.⁴² By statutorily guaranteeing some remedy upon the invocation of this provision, Congress again demonstrated its desire to see increased use of the “unreasonableness” provision.

Denial of worker rights

Congress also specified that “unreasonable” includes a persistent pattern of conduct that results in the denial of worker rights. Included in this conduct are the following actions:

- (1) the denial of the right of association;
- (2) the denial of the right to organize and bargain collectively;
- (3) permitting forced or compulsory labor;
- (4) failing to provide a minimum employment age; and
- (5) failing to provide standards for minimum wages, work hours, and health and safety.⁴³

In light of the wide variations in working conditions that exist globally, Congress provided that the general “denial of worker rights” should not be considered “persistent” if the country has taken steps to advance the overall status of worker rights, or if that country's worker rights standards are consistent with the country's level of economic development.⁴⁴ As with the export targeting provision, no § 301 case to date has invoked this provision as a basis for action under § 301.

Toleration of anticompetitive activity

Congress clarified that “unreasonable” actions include “toleration by a foreign government of systematic anticompetitive activities by or among private firms in that country.”⁴⁵ This provision represents a major shift from the original statute. That is, the “toleration” provision implicitly requires USTR to investigate actions of foreign firms, not simply foreign governments. Aware of the potential problems this new provision might create, Congress carefully noted that, as applied, the provision requires *actual* toleration by the *government*.⁴⁶

Last, as noted above, Congress required as part of the 1984 amendments that USTR consider the reciprocal opportunities in the United States for foreign nationals when making its “unreasonableness” determination.⁴⁷ This provision has particular ramifications for the “toleration of anticompetitive activities” provision.

Injury standard—Burden or restrict U.S. commerce

The interpretation of this statutory term for purposes of “unreasonable or discriminatory” acts, policies, or practices corresponds to that for “unjustifiable” acts.

The types of action delineated in the 1988 legislation as examples of “unreasonable or discriminatory acts” are not exclusive. In 2018, USTR determined that actions of the government of China relating to technology and intellectual property transfers by US companies doing business in China were unreasonable and discriminatory, as were Chinese government acts to support “unauthorized intrusions into, and theft from, the computer networks of US companies ...”⁴⁸

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Footnotes

1 As a preliminary point, in addition to trade in goods, the bases for action under § 301 apply to foreign country acts or practices that impede U. S. trade in services. The statutory definition of “commerce”

accompanying § 301 makes this clear. The statute explicitly provides that services, as well as investments, are included in the definition of “commerce.”  19 U.S.C.A. § 2411(d)(1)(A) and (B) (1995).

2 See  19 U.S.C.A. § 2411(a)(1)(A) and (B) (codifying § 1301(a) of the Trade Act of 1988). Specifically, the 1988 Act provided that if the USTR determines that: (1) U.S. rights under a trade agreement have been denied; (2) an act, policy or practice of a foreign government either violates or is inconsistent with or otherwise denies U.S. benefits under a trade agreement; or (3) the act, policy, or practice is otherwise unjustifiable and burdens or restricts U.S. commerce, the USTR “shall take action authorized {under section 301}.” See Trade Act of 1988, § 1301(a). See also Bello & Holmer, “The Heart of the 1988 Trade Act: A Legislative History of the Amendments to Section 301,” in 25 *Stan J Int'l L* 1 (1988) for a complete discussion of the Congress' motive for enacting the mandatory retaliation provision.

3 The Senate Finance Committee opined:

[The President] has the flexibility to take whatever action is most appropriate to remedy the particular practice or its effect on the United States. Along with this discretion in determining what action to take, however, has come the discretion to take no action. Too often U.S. Presidents have opted to do nothing in the face of provocative foreign trade barriers and trade-distorting practices.

S. Rep. No. 71, 100th Cong, 1st Sess 73 (1987).

4 See Trade Agreements Act of 1979, § 901, (amending section 301(a)(1)). Under this provision, the President was authorized to enforce U.S. rights under any trade agreement, regardless of whether the agreement was a congressionally approved trade agreement. See S. Rep. No. 249, 96th Cong, 1st Sess 232 (1979).

5  19 U.S.C.A. § 2411(a)(1)(A).

6 See, e.g., Japan Leather, Docket No. 301-13, 42 *Fed. Reg.* 42413 (1977) (finding that Japan's quantitative restrictions on U.S. imports of leather violated GATT Art XI).

7 MTN Codes are the agreements approved by Congress under § 3(a) of the Trade Agreements Act of 1979. See also, EC Pasta Export Subsidies, Docket No. 301-25, 46 *Fed. Reg.* 59675 (1981) (initiating investigation on EC pasta export subsidies based on allegation that subsidies violated GATT Art XVI and the MTN Subsidies Code).

8 See, e.g., Argentina Hides, Docket No. 301-24, 46 *Fed. Reg.* 59353 (1981). In this case, the National Tanners' Council alleged that Argentina had breached the U.S.-Argentina hides agreement. See also Taiwan Customs Valuation, Docket No. 301-56, 51 *Fed. Reg.* 28219 (1986). In this case, USTR found that because Taiwan had not implemented a bilateral treaty on customs valuations, Taiwan had violated a trade agreement. See 51 *Fed. Reg.* 28219 (1986). USTR found that the Taiwanese customs valuation system denied U.S. rights under a 1979 bilateral trade agreement. Since the Taiwan authorities agreed to abolish the duty-paying schedule that conflicted with the Agreement, USTR declined to take retaliatory action.

9 For example, the U.S. and Japan in 1995 reached certain agreements relating to trade in automobile parts. The Japanese, however, specifically stated that these agreements did not impose any specific obligations upon them. Whether such an agreement would be enforceable under § 301 is therefore a real question. For further discussion of the use of § 301 to enforce such informal agreements, see Bart S. Fisher & Ralph G. Seinhart, Section 301 of the Trade Act of 1974: Protection for U.S. Exporters of Goods, Services, and Capital, in 14 *Law & Pol'y Int'l Bus* 569, 596 (1982). Cf. Martin Nettesheim, Section 301 of the Trade Act of 1974: Response to Unfair Foreign Trade Practices, in *U.S. Trade Barriers, A Legal Analysis*

353, 362 (Grabitz and Bogdandy eds., 1991) (arguing that informal agreements as well as OECD Codes constitute a type of “soft” law that does not constitute a “trade agreement” for purposes of § 301(a)(1)).

10 See, e.g., Wolfgang W. Leirer, Retaliatory Action in United States and European Union Trade Law: A Comparison of Section 301 of the Trade Act of 1974 and Council Regulation 2641/84, in 20 NCJ Int'l Law & Com Reg 41, 55 (asserting that OECD Codes and “informal and hortatory agreements” should not be considered within the scope of the term “trade agreement” because they fail to provide formal dispute settlement procedures, an integral procedural element accompanying all claims under § 301(a)(1)(A)).

11 See Leirer, *supra*, at 56.

12  19 U.S.C.A. § 2411(a)(1).

13 See, e.g., Canada Import Restrictions on Beer, Docket No. 301-80, (petition filed May 1990).

14  19 U.S.C.A. § 2411(a)(1)(B)(i). As noted herein, the USTR is not required to take action pursuant to this section when certain circumstances exist. See *infra*, § (II)(A)(1)(e) for list of circumstances that may preclude mandatory action.

15 Nettesheim, *supra*, at 363. See also Alan O. Sykes, [Constructive Unilateral Threats in International Commercial Relations: The Limited Case for Section 301](#), in 23 Law & Pol'y Int'l Bus, 263, 284 (1992) (stating that while the term “otherwise denies benefits” is not explicitly defined, it plainly includes the practice of denying the United States reasonably anticipated commercial benefits, even if not technically violating the letter of any trade agreement).

16 Nettesheim, *supra*, at 363. Nettesheim, *supra*, at 362 to 363.

17 See, e.g., E.E.C. Citrus Case, Docket No. 41 Fed. Reg. 52567 (1976) (finding that EC preferential tariffs on orange and grapefruit juices and fresh citrus fruits denied general benefits to the United States arising under the GATT).

18 Nettesheim, *supra*, at 363.

19  19 U.S.C.A. § 2411(a)(1)(B)(ii).

20  19 U.S.C.A. § 2411(d)(4).

21  19 U.S.C.A. § 2411(d)(4).

22 Fisher & Steinhardt, *supra*, at 597 (arguing that all the various sources other than trade agreements are potential grounds for claims under the “unjustifiable” provision).

23 "FCN Treaties" refer to bilateral treaties on "friendship, commerce, and navigation."

24 See, e.g., Japanese Tobacco Products, Docket No. 301-50, 50 Fed. Reg. 37609 (1985) (alleging a breach of the Japan-U.S. bilateral treaty on friendship, commerce, and navigation). See also [Korea Insurance](#), Docket No. 301-51, 50 Fed. Reg. 37609 (1985) (also alleging a breach of the Korea-U.S. bilateral treaty on friendship, commerce, and navigation); Barriers to Access to the Japanese Market for Consumer Photographic Film and Paper Docket No. 301-99 (petition filed May 18, 1995) (petitioner, alleged that Japan violated the U.S.-Japan Treaty on Friendship, Commerce, and Navigation).

25 As noted earlier, however, a claim alleging denial of benefits under a trade agreement also effectively requires an injury showing.

26  19 U.S.C.A. § 2411(a)(1)(B)(ii).

27 See Leirer, *supra*, at 58 (noting that the injury standards at the International Trade Commission for both § 337 and Antidumping and Countervailing Duty investigations is much more rigorous than the § 301 injury standard).

28 See, e.g., *Indonesia Pencil Slats*, Docket No. 301-90 (Dec 31, 1992) (USTR terminated the investigation after determining there was no evidence that alleged practices were having adverse trade effects); *EC and Japan Diversion of Steel to U.S.*, Docket No. 301-10 (Jan. 30, 1978) (terminating investigation after concluding that there was not sufficient justification to the claim that EC-Japan agreement created an unfair burden to the U.S.).

29 *Nettesheim*, *supra*, at 366. In one case petitioner was able to convince USTR that a burden on U.S. commerce resulted from the reduced availability of raw material imports into the United States. See *Argentina Hides*, Docket No. 301-24 (Nov 16, 1982). Petitioner in that case also claimed Argentinian restrictions on exports resulted in a burden on U.S. commerce because it (a) artificially depressed prices on Argentine raw materials; and (b) gave an unfair advantage to Argentina in third country markets. See *Initiation of Investigation, Tanners' Council of America, Inc.*, 46 Fed. Reg. 59353, 59354 (Dec. 4, 1991).

30 See, e.g., *Canada Border Broadcasting*, Docket No. 301-15, 45 Fed. Reg. 51173 (Aug. 1980) (finding that implementation of the Canadian tax law denied U.S. border broadcasters access to a substantial portion of the Canadian broadcast industry, resulting in losses totalling between \$20 to \$25 million annually).

31 See Administrative Statement on the Protection of U.S. Intellectual Property Rights Abroad (USTR Apr 7, 1986) cited in Leirer, *supra*, at 662, note 170.

32 Technically, “restriction” may be cited less often because it implies a more intrinsically harmful effect on commerce than does “burden.” As a general matter, however, both terms are referenced when USTR reaches an affirmative injury finding. In one case, however, only the two terms were distinguished and injury was reached based solely on the “restriction” standard. See *Argentina Air Couriers*, Docket No. 301-44 (Nov. 16, 1984).

33  19 U.S.C.A. § 2411(a)(3).

34 See  19 U.S.C.A. § 2411(a)(2)(A) and (B).

35  19 U.S.C.A. § 2411(b). This discretionary authority is subject to the direction of the President.

Although this provision provides two bases for presenting a § 301 claim—unreasonable acts or discriminatory acts—this Section only reviews the “unreasonable” aspect of the provision. “Discriminatory” acts are technically different from “unreasonable” acts. Indeed, the statute defines “discriminatory” to mean, “an act ... which denies national or most-favored nation treatment to United States goods, services, or investment.”  19 U.S.C.A. § 2411(d)(5). In practice, however, it is difficult to envisage a scenario where “unreasonable” and “discriminatory” would be considered independent of each other.

Moreover, a review of the statutory definition of “discriminatory” may lead one to conclude that the provision is duplicative and unnecessary for other reasons. That is, the “discriminatory” practices of foreign governments as defined in the statute already fall within the scope of § 301(a). To construe the statute otherwise would undermine the mandatory retaliation provisions. In other words, the “discriminatory” provision may be read to give USTR the option to pursue either mandatory or discretionary action in response to national treatment and MFN violations. The presence of a “choice” between mandatory or discretionary action thus undermines the rationale for characterizing a provision as “mandatory” in the first place.

36  19 U.S.C.A. § 2411(3)(A).

37 Nettesheim, *supra*, at 366.

38  19 U.S.C.A. § 2411(d)(3)(D).

39 See *infra*, Section I.B.2. for complete discussion of 1988 amendments to section 301. See also, Judith H. Bello & Alan F. Holmer, *The Heart of the 1988 Trade Act: A Legislative History of the Amendments to Section 301*, in 25 *Stan J Int'l L* 1, 18 to 29 (1988) (providing a complete discussion of the legislative history pertinent to the export targeting, the denial of worker rights, and the toleration of anticompetitive practices provisions).

40  19 U.S.C.A. § 2411(d)(3)(B)(ii).

41  19 U.S.C.A. § 2411(d)(3)(E).

42  19 U.S.C.A. § 2415(b)(1)(A).

43  19 U.S.C.A. § 2411(d)(3)(B)(iii)(I) to (V).

44  19 U.S.C.A. § 2411(d)(3)(C)(i)(I) to (II).

45 See Trade Act of 1988, SS 1301(d)(3)(B).

46 See HR Conf Rep No 576, 100th Cong, 2nd Sess 570. The Conference report stated that the "provision is intended to take a flexible approach to these problems, and to attack trade-restrictive activities only when the foreign government is in essence at least a silent partner to the restrictive practice. HR Conf Rep No 576, 100th Cong, 2nd Sess 570 (emphasis added). See also S. Rep. No. 71, 100th Cong, 1st Sess 85. The Senate Finance Committee commented on the "toleration" provision as follows:

The inclusion of government toleration of certain anti-competitive activities as an actionable section 301 act, policy, or practice is not intended to apply broadly to any and all purchasing decisions by private firms. It is intended to apply to government toleration of pervasive or egregious activities in a foreign country by or among private firms which result in a persistent pattern of restricted market access by U.S. firms in a particular industry.

S. Rep. No. 71, 100th Cong, 1st Sess 85.

47  19 U.S.C.A. § 2411(d)(3)(D).

48 *Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 *Fed. Reg.* 14906 (April 6, 2018). ("China Intellectual Property").

EXHIBIT 65



unfair

 adjective

un·fair (,ən-ˈfer)

[Synonyms of unfair](#) >

1 : marked by injustice, partiality, or deception : **UNJUST**

2 : not equitable in business dealings

noun

[dirty](#)[foul](#)[illegal](#)[nasty](#)[unsportsmanlike](#)[See all Synonyms & Antonyms in Thesaurus](#) >

It's **unfair** for them to be allowed to leave early if we can't.

It seems **unfair** to single her out for criticism.

The company has been accused of **unfair** labor practices.

Recent Examples on the Web

The Monday ruling is separate from the 115 charges against Manchester City for allegedly breaching the Premier League's financial competition rules to gain an **unfair** advantage over rival clubs.

— Kurt Badenhausen, *Sportico.com*, 7 Oct. 2024

Additionally, Amazon was sued in 2020 for **unfair** competition and false advertising over the company reserving the right to end consumers' access to content purchased through Prime Video.

— Winston Cho, *The Hollywood Reporter*, 7 Oct. 2024

Fighters looking to gain an **unfair** advantage may take this steroid to overcome an injury quickly, assist in cutting weight, or increase their stamina ahead of a fight.

— Brian Mazique, *Forbes*, 4 Oct. 2024

The candidates have criticized China for intellectual property theft and **unfair** subsidization in tech and manufacturing that put U.S. businesses at a disadvantage.



Definition [Synonyms](#) [Example Sentences](#) [Word History](#) [Entries Near](#) [Show More](#) ▼

These examples are programmatically compiled from various online sources to illustrate current usage of the word 'unfair.' Any opinions expressed in the examples do not represent those of Merriam-Webster or its editors. [Send us feedback](#) about these examples.

First Known Use

1700, in the meaning defined at [sense 1](#)

Time Traveler

The first known use of *unfair* was in 1700

[See more words from the same year](#)

[unfainting](#)

unfair

[unfair list](#)

[See More Nearby Entries >](#)

Style

"Unfair." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/unfair>. Accessed 14 Oct. 2024.

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unfair

 adjective

un·fair (ˌən-ˈfa(ə)r) 'ən-, -'fe(ə)r



Definition [Synonyms](#) [Example Sentences](#) [Word History](#) [Entries Near](#) [Show More](#) ▼

2 : not fair in doing business
unfair to workers

adverb

noun

English: [Translation of *unfair* for Spanish Speakers](#)

Britannica English: [Translation of *unfair* for Arabic Speakers](#)

Last Updated: 11 Oct 2024 - Updated example sentences

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EXHIBIT 66



inequity

nounin·eq·ui·ty [\(,i-'ne-kwə-tē\)](#)[Synonyms of inequity](#) >

- 1** : INJUSTICE, UNFAIRNESS
- 2** : an instance of injustice or unfairness

[injustice](#)[unfairness](#)[unjustness](#)[See all Synonyms & Antonyms in Thesaurus](#) >

the **inequities** in wages paid to men and women

the **inequity** of the punishment led many people to believe that the defendant was being punished for his political beliefs

Recent Examples on the Web

The city of Cleveland has launched what could be a major initiative to fight housing **inequity**.

— Sam Allard, *Axios*, 9 Oct. 2024

Fewer minority and women employees in entry-level positions could drive further **inequities** in leadership positions.

— Robert Blum, *Fortune*, 9 Oct. 2024

The state can address historical **inequities** without assigning blame or punishing today's taxpayers.

— Kaitlyn Schallhorn, *Orange County Register*, 4 Oct. 2024

Photography by Micaiah Carter October 3, 2024 Last December, Taraji P. Henson broke down in tears while speaking about pay **inequity** during an interview on Gayle King's SiriusXM radio show.

— Alanna Bennett, *Glamour*, 3 Oct. 2024

[See all Example Sentences for inequity](#) >

These examples are programmatically compiled from various online sources to illustrate current usage of the word 'inequity.' Any opinions expressed in the examples do not represent those of Merriam-Webster or its editors. [Send us feedback](#) about these examples.



Definition [Synonyms](#) [Example Sentences](#) [Word History](#) [Related Articles](#) [Entries Near](#) [Show More](#)

First Known Use

1556, in the meaning defined at [sense 1](#)

Time Traveler

The first known use of *inequity* was in 1556

[See more words from the same year](#)

'Inequity' vs. 'Iniquity'

[inequitable](#)

inequity

[inequivalve](#)

[See More Nearby Entries >](#)

Style

"Inequity." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/inequity>. Accessed 14 Oct. 2024.

[Copy Citation](#)



Facebook



Twitter

inequity noun



Definition Synonyms Example Sentences Word History Related Articles Entries Near Show More ▼

1 : **INJUSTICE sense 1, UNFAIRNESS**

2 : an instance of injustice or unfairness

inequity noun

in·eq·ui·ty (in-ˈe-kwə-tē ⓘ)

plural **inequities**

: **INJUSTICE**

also : an instance of injustice

Last Updated: 14 Oct 2024 - Updated example sentences

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See Definitions and Examples »

EXHIBIT 67



United States
International Trade Commission

The Year in Trade 2022: Operation of the Trade Agreements Program 74th Report

December 2023

Publication Number: 5476

Investigation Number: 163-002



United States International Trade Commission

Commissioners

David S. Johanson, Chairman

Rhonda K. Schmidlein

Jason E. Kearns

Amy A. Karpel

Catherine DeFilippo

Director, Office of Operations

William Powers

Director, Office of Economics

Address all communications to

Office of External Relations (externalrelations@usitc.gov)

United States International Trade Commission

Washington, DC 20436



United States
International Trade Commission

The Year in Trade 2022: Operation of the Trade Agreements Program

74th Report

December 2023

Publication Number: 5476

Investigation Number: **163-002**



United States International Trade Commission

This report was prepared principally by:

Project Leader

Wen Jin “Jean” Yuan

Deputy Project Leader

Kim Ha

Office of Economics

Erika Bethmann, Cindy Cohen, Chang Hong, Lin Jones, Natalia King, Sarah Krulikowski, Stephanie Fortune-Taylor, and Karen Thome

Office of Industry and Competitiveness Analysis

Junie Joseph

Office of Investigations

Kelly Carley, Douglas Corkran, and Salvatore Mineo

Office of Analysis and Research Services

Lita David-Harris and Aaron Woodward

Office of Tariff Affairs and Trade Agreements

Ryan Kane and Tyler Martin

Office of Unfair Import Investigations

David Lloyd

Office of the General Counsel

Brian Allen and William W. Gearhart

Content Reviewers

Alan Fox, Jennifer Catalano, John Fry, David Guberman, Tamar Khachaturian, Jennifer Powell, Jeffrey Walling, and Heather Wickramarachi

Editorial Reviewers

Ronald Docksai, Judy Edelhoff, and Brian Rose

Statistical Reviewers

Ann Marie Carton, Lacy Douglas, Conor Hargrove, Maureen Letostak, Cynthia Payne, Laura Thayn

Fact-Checkers

Chidozie Ezi-Ashi, Huyen Khanh Nguyen, and Dominique Varier



United States International Trade Commission

Production Support

Justin Holbein

Special Assistance

Carrin Brown and Vamsi Motaparthi

Under the direction of

Arona Butcher, Chief, Country and Regional Analysis Division, Office of Economics

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Preface

This report is the 74th in a series of annual reports submitted to the U.S. Congress under section 163(c) of the Trade Act of 1974 (19 U.S.C. § 2213(c)), under predecessor legislation, and pursuant to request. Section 163(c) states that “the International Trade Commission shall submit to the Congress at least once a year, a factual report on the operation of the trade agreements program.”

This report is one of the principal means by which the U.S. International Trade Commission (USITC) provides Congress with factual information on the operation of the U.S. trade agreements program for 2022. The “trade agreements program” includes “all activities consisting of, or related to, the administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution” and by congressional legislation.

Abbreviations and Acronyms

Acronyms	Term
AB	Appellate Body
AD	antidumping
AfCFTA	African Continental Free Trade Area
AGOA	African Growth and Opportunity Act
ALJ	administrative law judge
AMCA	American Manufacturing Competitiveness Act of 2016
AMS	Agricultural Marketing Service (USDA)
APEC	Asia-Pacific Economic Cooperation
APEP	Americas Partnership for Economic Prosperity
ASEAN	Association of Southeast Asian Nations
ATEC	Agreement on Trade and Economic Cooperation
BDCs	beneficiary developing countries
BEA	Bureau of Economic Analysis (USDOC)
BEPS	Base Erosion and Profit Shifting Project (OECD/G20)
BIS	Bureau of Industry and Security (USDOC)
Brexit	Britain's vote to leave the European Union
CAFTA-DR	Dominican Republic-Central America-United States Free Trade Agreement
CBERA	Caribbean Basin Economic Recovery Act
CBTPA	Caribbean Basin Trade Partnership
CEC	Commission for Environmental Cooperation
CEIC	Census and Economic Information Center
CETA	Comprehensive Economic and Trade Agreement
CETR	U.S.-Brazil Commission on Economic and Trade Relations (ATEC)
C.F.R.	Code of Federal Regulations
CJEU	Court of Justice of the European Union
CLDP	Commercial Law Development Program (USDOC)
CNL	competitive need limitation
CP-TPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
CRS	Congressional Research Service
CSPV	crystalline silicon photovoltaic
CTG	Council for Trade in Goods (WTO)
CTPA	U.S.-Colombia Trade Promotion Agreement
CVD	countervailing duty
DIT	Department for International Trade (UK)
DRC	Democratic Republic of the Congo
DS	dispute settlement (WTO)
DSB	Dispute Settlement Body (WTO)
DST	digital services tax
DSU	Dispute Settlement Understanding (WTO)
e-commerce	electronic commerce
EAC	East African Community
EC	European Commission
ECA	Environmental Cooperation Agreement
EDA	Economic Development Administration (USDOC)
EIA	Energy Information Administration (USDOE)
EIAP	Earned Import Allowance Program
ETA	Employment and Training Administration (USDOL)

Acronyms	Term
EU	European Union
FAS	Foreign Agricultural Service (USDA)
Fed. Reg.	<i>Federal Register</i>
FDI	foreign direct investment
U.S.-UK FIP	U.S.-UK Financial Innovation Partnership
FIPS	Federal Information Processing Standards
FSIS	Food Safety and Inspection Service (USDA)
FSSAI	Food Safety and Standard Authority of India
FTA	free trade agreement
FTC	Free Trade Commission
FY	fiscal year
G7	Group of Seven
G20	Group of Twenty
GACC	General Administration of Customs of China
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GC	General Council (WTO)
GDP	gross domestic product
GDPR	General Data Protection Regulation (EU)
GE	genetically engineered
GIs	geographical indication
GloBE	Global Anti-Base Erosion model (OECD/G20)
GOES	grain-oriented electrical steel
GOS	group of services
GSP	U.S. Generalized System of Preferences
GSP-LDBC	U.S. Generalized System of Preferences for least-developed beneficiary developing countries
HELP	Haitian Economic Lift Program
HOPE	Haitian Hemispheric Opportunity through Partnership Encouragement Act
HS	Harmonized Commodity Description and Coding System (Harmonized System)
HTS	Harmonized Tariff Schedule of the United States
IATA	International Air Transport Association
ICT	internet communication technology
IEA	International Energy Agency
IIP	Index of Industrial Production (UNIDO)
ILAB	Bureau of International Labor Affairs (USDOL)
ILC	Interagency Labor Committee for Monitoring and Enforcement
ILO	International Labour Organization
IMF	International Monetary Fund
IMLEB	Independent Mexico Labor Expert Board
IP	intellectual property
IPEF	Indo-Pacific Economic Framework for Prosperity
IPRs	intellectual property rights
ISIC	International Standard Industrial Classification of All Economic Activities
ITA	International Trade Administration (USDOC)
IUU	illegal, unreported, and unregulated (fishing)
KFTC	Korea Free Trade Commission
KORUS	U.S.-Korea Free Trade Agreement
LDBC	least-developed beneficiary country
LDBDCs	least-developed beneficiary developing countries
LDCs	least-developed countries
LPO	Organic Products Law (Mexico)

Acronyms	Term
LTFV	less than fair value
M&A	mergers and acquisitions
MAP	monitoring and action plan
MC12	12th Ministerial Conference (WTO)
METI	Ministry of Economy, Trade, and Industry (Japan)
MFN	most-favored-nation
MNE	multinational enterprise
MOU	memorandum of understanding
MRLs	Minimum Residue Limits
MTB	Miscellaneous Tariff Bill Act of 2018
NAAEC	North American Agreement on Environmental Cooperation
NAALC	North American Agreement on Labor Cooperation
NAFTA	North American Free Trade Agreement
NIE	not included elsewhere
NTPP	Nepal Trade Preference Program
NTPA	Nepal Trade Preferences Act
NTR	normal trade relations
OECD	Organisation for Economic Co-operation and Development
OICA	International Organization of Motor Vehicle Manufacturers
OJEU	<i>Official Journal of the European Union</i>
OTE	Office of Technology Evaluation (USDOC)
OTEXA	Office of Textiles and Apparel (USDOC)
OxCGRT	Oxford COVID-19 Government Response Tracker
PPE	personal protective equipment
PTPA	U.S.-Peru Trade Promotion Agreement
REACH	Registration, Evaluation, Authorisation, and Restriction of Chemicals
ROOs	rules of origin
S&P	Standard & Poor's
SADER	Ministry of Agriculture and Rural Development (Mexico)
SCFAP	Supply-Chain Connectivity Framework Action Plan
SCM Agreement	Agreement on Subsidies and Countervailing Measures (WTO)
SMEs	small and medium-sized enterprises
SPS	sanitary and phytosanitary (standards)
SSA	Sub-Saharan Africa
STIP	U.S.-Kenya Strategic Trade and Investment Partnership
TAA	Trade Adjustment Assistance
TAAEA	Trade Adjustment Assistance Extension Act of 2011
TAARA	Trade Adjustment Assistance Reauthorization Act of 2015
TBT	Technical Barriers to Trade Agreement (WTO)
TIC	Trade and Investment Council
TICA	Trade and Investment Cooperation Agreement
TICF	Trade and Investment Cooperation Forum
TICFA	Trade and Investment Cooperation Forum Agreement
TIFA	Trade and Investment Framework Agreement
TIWG	U.S.-Kenya Trade and Investment Working Group
TPA	trade promotion agreement
TPEA	Trade Preferences Extension Act
TPF	U.S.-India Trade Policy Forum
TRA	Trade Readjustment Allowances
TRIPS	Trade-Related Aspects of Intellectual Property Rights agreement (WTO)
TRQ	tariff-rate quota

Acronyms	Term
TTC	U.S.-EU Trade and Technology Council
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
UNIDO	United Nations Industrial Development Organization
UNWTO	United Nations World Tourism Organization
USAID	U.S. Agency for International Development
U.S.C.	U.S. Code
USDA	U.S. Department of Agriculture
USDOC	U.S. Department of Commerce
USDOE	U.S. Department of Energy
USDOL	U.S. Department of Labor
USDOS	U.S. Department of State
USDOT	U.S. Department of Transportation
USEPA	U.S. Environmental Protection Agency
USITC	U.S. International Trade Commission
USJDTA	U.S.-Japan Digital Trade Agreement
USJTA	U.S.-Japan Trade Agreement
USMCA	United States-Mexico-Canada Agreement
USTR	Office of the U.S. Trade Representative
WHO	World Health Organization
WRC	wheat, rice, and corn
WTO	World Trade Organization

Executive Summary

Global Trade Environment in 2022

In 2022, global growth in gross domestic product (GDP) and manufacturing output slowed from their strong rates in 2021, while inflation increased. Efforts to control inflation, Russia's invasion of Ukraine, rising energy prices, a resurgence in COVID-19 cases particularly in China, and continued supply chain issues affected the world economy in 2022. Global merchandise trade by value increased by around 12 percent from the 2021 level, with increases in merchandise trade in most product sectors. Global exports of commercial services also grew by about 16 percent compared to 2021, largely due to the resurgence in travel services trade, which had declined significantly during the COVID-19 pandemic. Meanwhile, economic conditions improved in the United States during the second half of 2022, as the rate of inflation began to decline and GDP increased, albeit at a lower rate than in 2021. The U.S. dollar appreciated vis-à-vis most currencies of major trading partners, though it declined in value in the fourth quarter of 2022.

Global Macroeconomic Trends

Global gross domestic product (GDP): Global economic growth slowed in 2022 to 3.4 percent following strong growth of 6.3 percent in 2021. Inflation control measures, Russia's invasion of Ukraine, and the resurgence of COVID-19 cases in China contributed to lower growth during the year. Emerging market and developing economies grew faster, at 4 percent, than advanced economies, which grew by 2.7 percent. The U.S. economy grew by 1.9 percent, slower than the world average and the average of advanced economies. The economies of India, the United Kingdom (UK), and the European Union (EU) grew at rates faster than the world average, while growth rates in Canada, Mexico, China, and Japan were below the world average.

Inflation: Global inflation increased in 2022 with average consumer prices increasing by 8.7 percent, compared to an increase of 4.7 percent the previous year. Emerging markets and developing economies experienced higher inflation than advanced economies. In the United States, consumer prices rose by 8 percent in 2022 compared to 4.7 percent in 2021. Inflation rates in the UK and EU exceeded 9 percent, but inflation rates in Japan and China were relatively low. Energy and food prices began to ease in the second half of the year, bringing down global inflation rates.

Manufacturing output: Global manufacturing output growth slowed in 2022, growing by 2.9 percent during the year compared to 9.4 percent in 2021. The substantial rise in global manufacturing output during 2021 primarily resulted from a recovery in production over 2020 levels during the peak of the COVID-19 pandemic. Industrial economies experienced lower production output growth in 2022 than industrializing economies. Electrical equipment, computer products, beverages, other transport equipment, and motor vehicles recorded the largest expansions in growth.

Labor: Global total hours worked, a proxy for the health of the global labor market, continued to recover from 2020 lows but remained 1.4 percent below pre-pandemic levels. Working hours in high-income

and upper-middle-income economies returned to nearly pre-pandemic levels; those of middle- and low-income economies were slower to recover.

Foreign direct investment (FDI): Global FDI inflows declined by 12.4 percent in 2022, driven by declining financial flows to developed economies during the year. Developing economies experienced 4 percent growth in FDI inflows in 2022, but FDI inflows to developed economies dropped by 36.7 percent. Although overall global FDI inflows declined, the global value of announced greenfield projects increased by 64 percent in 2022 compared to 2021. The highest value of announced greenfield projects in 2022 was in three key areas: energy and gas supply, electronics and electrical equipment, and information and communication industries.

Exchange rate: The value of the U.S. dollar appreciated overall during the year, rising 5.2 percent, according to the Federal Reserve's broad index of global currencies. The overall appreciation included some weakening during November and December. The U.S. dollar appreciated against the currencies of all major U.S. trade partners except Mexico. The largest U.S. dollar gains were against the Japanese yen (14.3 percent), the British pound (11.5 percent), and Indian rupee (11.3 percent). The U.S. dollar fell 5.2 percent against the Mexican peso.

Global Trade Trends

Global merchandise trade: The value of global merchandise trade increased by 12.4 percent compared to the 2021 value, a deceleration compared to the 26.6 percent growth from 2020 to 2021. Global trade in most product sectors increased in 2022 compared to 2021—with the largest increases in the fuels and mining products sectors. Despite significant increases in trade in the first half of 2022, some of these same sectors experienced a significant deceleration in annual growth in the third and fourth quarters of 2022. Meanwhile, trade in the office and telecommunications equipment sector experienced the lowest positive annual growth of 2 percent, and textiles sector trade contracted by 1 percent. All regions experienced increases in total merchandise trade with the Middle East growing the most (32.5 percent) and Asia growing the least (8.3 percent).

Global services trade: Global exports of commercial services grew to \$7.0 trillion in 2022, a 14.8 percent increase from 2021, largely due to the strong resurgence in travel services trade and, to a lesser extent, transport services trade after the COVID-19 pandemic eased. During 2021–22, Europe and the Middle East posted the largest increases in travel services exports, increasing by 67.2 percent to \$530.3 billion and 102 percent to \$118.3 billion, respectively. In that same period, travel services imports increased by value across all regions, led by Europe (up 75.4 percent to \$451.4 billion) and followed by Asia (up 38.9 percent to \$242.9 billion) and North America (up 110.3 percent to \$147 billion). The global tourism industry anticipates continued growth in demand due to rising per capita incomes, improved consumer sentiment, and the lifting of pandemic-related travel restrictions in China in early 2023.

Trade Trends for Ukraine and Russia

Russia's invasion of Ukraine on February 24, 2022, led to significant volatility in commodity markets, in many cases exacerbating tightening market conditions that had begun in 2021. Economic sanctions, trade embargos, and disruptions to Black Sea trade, among other factors, caused supply shocks in global commodity markets. As a result, certain commodity prices surged as supplies tightened. In addition,

established trade relationships fractured. In particular, Ukraine's and Russia's agriculture and iron and steel sectors were among those most impacted in 2022. Russia's energy, fertilizer, palladium, precious metals, and gemstones sectors were also impacted. However, the impact of the supply shocks on markets moderated in the second half of 2022, as trade flows shifted to other trade partners, consumption declined, and diplomatic agreements were reached. In most cases, Ukraine and Russia saw a decrease in the value of 2022 trade of these commodities, with the exception of the energy and fertilizer sectors.

Administration of U.S. Trade Laws and Regulations

Key Developments in 2022

Safeguard investigations: No new safeguard petitions were filed under sections 202–204 of the Trade Act of 1974, and no new investigations were instituted in 2022. However, two global safeguard actions implemented prior to 2022 remained in place during the year: one on solar cells and modules, and the other on large residential washers. Two monitoring investigations were initiated in 2020 on imports of two perishable products, fresh or chilled bell peppers and fresh or chilled strawberries—that would have allowed a domestic industry to file a safeguard petition and in that petition seek provisional relief pending completion of a full investigation. The monitoring investigations were allowed to terminate after no petition was filed during the two-year monitoring period that ended in December 2022.

Section 301 investigations: Active section 301 investigations in 2022 covered technology transfer, intellectual property, and innovation practices in China as well as timber-related activities in Vietnam. Over the course of 2022, the Office of the U.S. Trade Representative (USTR) continued to monitor developments in section 301 investigations involving taxes on digital services proposed or adopted in France and other jurisdictions, large civil aircraft subsidies by the EU and certain current or former member states, and currency valuation in Vietnam.

- Technology transfer, intellectual property, and innovation practices in China: During 2018 and 2019, the Office of the U.S. Trade Representative imposed additional duties on products of China in four tranches, with a value of \$550 billion and established a process for requesting the exclusion of particular products. In 2022, the U.S. Trade Representative announced extensions of certain specific COVID-19-related exclusions from the duties. USTR also reviewed public comments on the potential reinstatement of 549 previously extended general exclusions, ultimately reinstating and extending 352 exclusions.

USTR also conducted the statutory four-year review process regarding the possible termination of the tariff actions (19 U.S.C. 2417(c)). In May 2022, USTR announced the commencement of a review of the actions taken under section 301, providing both notification of the possible termination of the actions and the opportunity for representatives of domestic industries that benefit from actions to request continuation of the actions. In September 2022, USTR announced that it had received requests for continuation of the actions from representatives of

domestic industries that benefit from the tariff actions; that, accordingly, the tariff actions had not terminated; and that USTR would conduct a statutory review of the tariff actions.

USTR conducted a four-year review of the July 6, 2018, action, as modified, and the August 23, 2018, action, as modified, opening an electronic portal to receive public comments covering issues such as the effectiveness of the actions in achieving the objectives of the investigation; other actions that could be taken; the effects of the actions on the U.S. economy, including consumers; and the impact of such actions. The comment period for the four-year review remained open until January 17, 2023.

- Vietnam timber: In April 2022 and November 2022, the United States and Vietnam convened meetings of the Timber Working Group, which was established to facilitate coordination and oversee implementation of the 2021 agreement addressing U.S. concerns over Vietnam’s import and use of alleged illegally harvested and traded timber.
- Digital services taxes (DSTs): After previously finding that the DST adopted by France and, subsequently, Austria, India, Italy, Spain, Turkey, and the UK were subject to action under section 301, in 2021, the United States joined 136 other Inclusive Framework member jurisdictions in the “Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy” adopted by the Organisation for Economic Co-operation and Development (OECD) and the Group of 20 (G20). In light of agreements by these countries with the Statement, the United States terminated its existing section 301 actions against each country. USTR, in coordination with the U.S. Department of the Treasury (U.S. Treasury), continues to monitor the agreements and will consider further action under section 301 if implementation is not satisfactory.
- Large civil aircraft subsidies: As a result of cooperative frameworks with the EU and the UK to address the large civil aircraft disputes, in 2021, USTR suspended the actions resulting from the section 301 investigations until 2026. In 2022, USTR monitored implementation by the EU and UK of the framework understandings and their respective measures related to the matters covered in the dispute.
- Vietnam currency: Having previously determined that no action under the section 301 investigation was warranted at the time in light of an agreement between the U.S. Treasury and the State Bank of Vietnam regarding currency practices, in 2022, USTR, in coordination with the U.S. Treasury, continued to monitor implementation of commitments and associated measures by Vietnam.

Special 301 investigations: USTR conducts an annual review of the state of intellectual property rights (IPRs) enforcement and protection among U.S. trading partners pursuant to section 182 of the Trade Act (also known as “special 301”). To aid in the administration of the statute, USTR publishes a watch list and a priority watch list identifying countries with particular IPR-related problems. In its 2022 *Special 301 Report*, USTR placed seven countries on its priority watch list: Argentina, Chile, China, India, Indonesia, Russia, and Venezuela. USTR suspended the review of Ukraine in 2022 and removed Saudi Arabia from the watch list based on publication of intellectual property enforcement procedures; creation of specialized courts and training of specialists within government authorities; steps to enhance intellectual property awareness, outreach, training, support, and coordination; and increased enforcement against counterfeit and pirated goods and online pirated content.

Antidumping duty (AD) investigations: The Commission instituted 15 new antidumping investigations and made 19 preliminary determinations and 21 final determinations in 2022. As a result of the affirmative final U.S. Department of Commerce (USDOC) and Commission determinations, the USDOC issued 15 antidumping duty orders on nine products from eight countries in 2022.

Countervailing duty (CVD) investigations: The Commission instituted 7 new countervailing duty investigations and made 11 preliminary determinations and 15 final determinations in 2022. The USDOC issued eight countervailing duty orders on six products from four countries in 2022 as a result of the affirmative USDOC and Commission determinations.

AD/CVD reviews: The USDOC and the Commission instituted 100 sunset reviews of existing AD/CVD orders or suspended investigations, as required by law, either five years after initial publication or five years after publication of a subsequent determination to continue them. The Commission completed 108 reviews, resulting in the continuation of 103 AD/CVD orders.

Section 129 determinations: Section 129 of the Uruguay Round Agreements Act sets out a procedure under which the United States may respond to an adverse World Trade Organization (WTO) panel or Appellate Body report concerning U.S. obligations under the WTO agreements on safeguards, antidumping, or subsidies and countervailing duty measures. Only one proceeding was conducted during 2022 under section 129 of the Uruguay Round Agreements Act. The proceeding was conducted by the USDOC and concerned the calculation of a subsidy rate. As a result of its review, the USDOC issued a final determination in December 2022 recalculating and reducing the subsidy rate.

Section 337 investigations: Over the course of 2022, there were 140 active section 337 investigations and ancillary proceedings alleging unfair practices in the import trade, such as the importation of products that infringe valid and enforceable U.S. patents. Of the 80 new proceedings instituted in 2022, 59 were new section 337 investigations and 21 were new ancillary (secondary) proceedings relating to previously concluded investigations. The Commission completed a total of 83 investigations and ancillary proceedings under section 337 in 2022 and issued 8 general exclusion orders, 14 limited exclusion orders, and 61 cease and desist orders.

Section 337 proceedings active in 2022 involved claims regarding a broad spectrum of products. Technology products remained the single largest category, with 35 percent of the active proceedings involving computer and telecommunications equipment, and another 15 percent involving consumer electronics. The next-largest category was pharmaceuticals and medical devices, which were at issue in about 9 percent of the active proceedings. Other types of articles at issue varied widely, ranging from lighting products to chemicals, knitted footwear, golf club connectors, and hazelnuts.

National security investigations: During 2022, the USDOC instituted no new investigations under the national security provisions in section 232 of the Trade Expansion Act of 1962. The USDOC completed its review of whether imports of neodymium-iron-boron permanent magnets threaten U.S. national security and delivered its findings to the President on June 17, 2022. In response to the USDOC's recommendations, the United States will bolster domestic production throughout the supply chain, promote demand for U.S.-produced magnets, engage with allies and partners on supply chain resilience, support the development of a highly skilled workforce, support research to mitigate supply chain vulnerabilities, monitor the domestic supply chain, and take appropriate actions.

Tariff increases imposed in 2018 under section 232 on certain steel and aluminum imports remained in place throughout 2022, though the duties were subject to numerous exclusions and modifications. Over the course of 2022, the President provided duty exemptions within annual tariff-rate quotas on articles originating in Japan, temporary exemptions to section 232 duties on articles originating in Ukraine, and duty exemptions within annual tariff-rate quotas on articles originating in the UK.

Trade adjustment assistance (TAA): The U.S. Department of Labor (USDOL) administered the TAA for Workers Program, while the USDOC administered the TAA for Firms Program. Effective July 1, 2021, the TAA program, as amended by the Trade Adjustment Assistance Reauthorization Act of 2015, reverted to a previous version of the program, referred to as Reversion 2021. On June 30, 2022, the authorization for the TAA program expired. As of December 31, 2022, the TAA program had not been reauthorized.

As a result, the USDOL did not accept any new petitions or requests for reconsideration and could not issue any determinations through the TAA for Workers Program as of July 1, 2022. Likewise, starting July 1, 2022, the USDOC's Economic Development Administration (EDA) could no longer accept new petitions from firms for certification of eligibility for TAA through the TAA for Firms Program. In fiscal year (FY) 2022, the USDOL received 306 petitions from groups of workers seeking benefits, a decline by more than half from 743 petitions filed in FY 2021. One of the main reasons for the decline was that petitions were no longer accepted. The USDOL certified 168 petitions covering 25,099 workers as eligible to apply for benefits and services under the TAA for Workers Program and denied 220 petitions covering 26,514 workers. In FY 2022, the USDOC certified 47 petitions as eligible for assistance under the TAA for Firms Program and approved 77 adjustment protocols.

Trade Preference Programs

Trade preference programs generally provide duty-free treatment to U.S. imports of eligible articles from designated beneficiary developing countries. Total U.S. imports under these trade preference programs increased in value from 2021 to 2022. U.S. imports entered under the African Growth and Opportunity Act (AGOA) and U.S. Generalized System of Preferences (GSP) had the largest increases in value from 2021 to 2022. The value of U.S. imports under the Caribbean Basin Economic Recovery Act (CBERA) and the Nepal Trade Preference Program (NTPP) was also greater in 2022 compared to 2021. Though U.S. imports under the trade preference programs increased from 2021 to 2022, the utilization rate of trade preference programs paints a mixed picture.

The utilization rate of trade preference programs estimates the extent to which countries claim program benefits. The AGOA and CBERA programs' utilization rates increased by 9.1 percent and 0.1 percent, respectively, from 2021 to 2022. The GSP and NTPP programs' utilization rates declined by 5.3 percent and 5.4 percent, respectively, from 2021 to 2022.

Generalized System of Preferences (GSP): The President's authority to provide duty-free treatment under the GSP program expired on December 31, 2020, and the lapse in authority continued through the end of 2022. With the lapse in authority, U.S. importers were still permitted to claim GSP preferences, but could not receive them, pending reauthorization of the President's authority. U.S. imports claiming preferences rose by about 15 percent to \$21.5 billion in 2022. With GSP lapsed for the entirety of 2022, the GSP Subcommittee of the Trade Policy Staff Committee took no actions. Members

of Congress introduced several bills to reauthorize the President’s authority during 2022, but none of those bills were enacted into law.

African Growth and Opportunity Act (AGOA): In 2022, imports from 36 designated sub-Saharan African countries were eligible for AGOA benefits. Of these countries, imports from 24 were eligible for AGOA textile and apparel benefits for all or part of 2022. As a result of the 2022 annual AGOA review, Burkina Faso was terminated as a designated country effective January 1, 2023. In 2022, the value of U.S. imports that claimed AGOA preferences (including imports that are AGOA eligible but entered under GSP) was \$10.3 billion, a 52.5 percent increase from 2021. These imports comprised 34.4 percent of total imports from AGOA countries in 2022. In 2022, imports entering the United States exclusively under AGOA (excluding those entered under GSP) were valued at \$9.6 billion, accounting for 32 percent of U.S. imports from AGOA countries.

Caribbean Basin Economic Recovery Act (CBERA): In 2022, imports from 17 countries and dependent territories were eligible for CBERA preferences, among which 8 were eligible for expanded preferences under the Caribbean Basin Trade Partnership Act (CBTPA). Haiti receives additional preferences under the CBERA program through the country-specific HOPE and HELP Acts. In 2022, the total value of U.S. imports that claimed CBERA preferences increased 21.9 percent to \$2.7 billion. Trinidad and Tobago, Guyana, and Haiti were the top three suppliers of U.S. imports under CBERA; crude petroleum, methanol, and cotton T-shirts were the top imported products. Imports entered under CBERA accounted for 21.6 percent of all U.S. imports from CBERA beneficiaries in 2022.

The World Trade Organization

WTO developments in 2022: The Twelfth WTO Ministerial Conference (MC12) was held in Geneva June 12–17, 2022. MC12 was held following two earlier postponements of the conference from June 2020 and December 2021 due to the COVID-19 pandemic and travel and quarantine restrictions in Switzerland. At the conclusion of MC12, the ministers adopted a package of agreements, referred to as the “Geneva package,” that included the following:

- An outcome document covering WTO reform and other issues;
- A series of initiatives comprising a Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics, a Ministerial Decision on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), an Agreement on Fisheries Subsidies, a Ministerial Declaration on Emergency Response to Food Insecurity, a Ministerial Decision on World Food Programme Food Purchases Exemptions from Export Prohibitions or Restrictions, and a Ministerial Decision on the Work Programme on Electronic Commerce and the moratorium on customs duties on electronic transmissions;
- Decisions on the Work Programme on Small Economies and on TRIPS Agreement non-violation and situation complaints; and
- A Sanitary and Phytosanitary (SPS) Declaration for the Twelfth WTO Ministerial Conference: Responding to Modern SPS Challenges.

In particular, the Agreement on Fisheries Subsidies commits members to eliminate the most harmful fisheries subsidies that are fueling depletion of fish stocks and depriving fishing communities of their livelihoods. Moreover, as part of their Ministerial Decision on the Work Programme on Electronic

Commerce, WTO members agreed to maintain their current practice of not imposing customs duties on electronic transmissions, with the moratorium to remain in effect until the next ministerial conference, to be held in February 2024. The Ministerial Decision on the TRIPS Agreement provided additional flexibilities for developing country members with respect to patents for COVID-19 vaccines. It relaxed the conditions on the use of compulsory licenses to manufacture pharmaceutical products for export.

WTO dispute activities during 2022: During 2022, WTO members filed eight new requests for dispute settlement consultations, one less than in 2021. One new dispute was filed during 2022 against the United States, by China; the United States filed no new disputes during 2022. In its request for consultations with the United States, China requested consultations concerning certain measures of the United States related to trade in certain advanced computing semiconductor chips, supercomputer items, semiconductor manufacturing items, and other items, as well as their related services and technologies destined for or in relation to China. Of the seven remaining new disputes filed during 2022, the EU filed five—one each against Russia, Egypt, and the UK, and two against China; Argentina filed one dispute against Peru; and South Africa filed one against the EU.

In December 2022, a panel issued four virtually identical reports in disputes filed by China, Norway, Switzerland, and Turkey, respectively, in 2018, challenging higher duties imposed by the United States under section 232 of the Trade Expansion Act of 1962.

In findings against the United States, the panel, among its actions, assessed whether the measures were taken under the conditions and circumstances described in subparagraph (iii) of Article XXI(b), providing that a member may take action which it considers necessary for the protection of its essential security interests “in time of war or other emergency in international relations.” The panel considered that an “emergency in international relations” under Article XXI(b)(iii) refers to situations of a certain gravity or severity and international tensions that are of a critical or serious nature in terms of their impact on the conduct of international relations.

The panel did not find that the measures at issue were “taken in time of war or other emergency in international relations” within the meaning of Article XXI(b)(iii) of the GATT 1994. The panel therefore found that the inconsistencies of the measures at issue with certain provisions of the GATT 1994 were not justified under Article XXI(b)(iii) of the GATT 1994. On January 26, 2023, the United States notified the Dispute Settlement Body (DSB) of its decision to appeal to the Appellate Body certain issues of law and legal interpretations in the panel report. Because the Appellate Body is currently unable to review appeals, a final decision is still pending.

Three other disputes involving similar claims previously filed by the EU (DS548), Canada (DS550), and Mexico (DS551) were resolved by mutual agreement and withdrawn. A dispute with similar claims filed by Russia (DS554) was still pending before a panel at the end of 2022. A dispute with similar claims filed by India (DS547) was resolved in June 2023.

Selected Regional and Bilateral Activities

Organisation for Economic Co-operation and Development (OECD): In January 2022, the OECD Council decided to open accession discussions with six candidate countries to OECD membership—Argentina, Brazil, Bulgaria, Croatia, Peru, and Romania. The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) made further progress in 2022 to develop technical documents that seek to

address tax challenges arising from digitalization, the key area of focus of the BEPS project. In December 2022, the OECD announced that Azerbaijan joined the Inclusive Framework, bringing the total number of its members to 142 OECD and non-OECD countries and jurisdictions. As of December 16, 2022, 138 Inclusive Framework member countries and jurisdictions joined the October 2021 “Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy.”

Asia-Pacific Economic Cooperation (APEC): Hosted by Thailand, APEC’s key activities in 2022 included adopting the theme “Open. Connect. Balance.” with the following three policy priorities: (1) promote trade and investment that is open to all opportunities, (2) reconnect the region in all dimensions, and (3) drive APEC towards balanced, inclusive, and sustainable growth. APEC’s key activities in 2022 included revitalization of discussions on the Free Trade Area of the Asia-Pacific agenda; support for the multilateral trading system, including the WTO’s Twelfth Ministerial Conference (MC12) held in June 2022; and, in the context of the COVID-19 pandemic, support for restoring connectivity by resuming safe and seamless cross-border travel, and reinvigorating tourism and the services sector.

Trade and investment framework agreements (TIFAs): By the end of 2022, the United States had entered into 60 TIFAs. The U.S.-Brazil Protocol Relating to Trade Rules and Transparency entered into force in February 2022, after being signed in October 2020. A number of TIFA Council meetings took place in 2022 with Algeria, Argentina, the Association of Southeast Asian Nations, Bangladesh, Brazil, Cambodia, Central Asian countries, Ecuador, Egypt, Paraguay, Philippines, Taiwan, Ukraine, and Uruguay.

Other trade initiatives: In 2022, the United States launched new regional and bilateral trade initiatives. The Indo-Pacific Economic Framework for Prosperity (IPEF) launched on May 23, 2022. The IPEF comprises four pillars—on trade, supply chains, clean economy, and fair economy—which U.S. representatives have characterized as a new model for economic engagement. Negotiations on the text under the trade pillar covered trade facilitation, agriculture, and transparency and good regulatory practices.

Bilateral initiatives with Taiwan (the U.S.-Taiwan Initiative on 21st Century Trade) and Kenya (the U.S.-Kenya Strategic Trade Partnership) largely mirror the negotiating areas identified in the IPEF, and launched on June 1, 2022, and July 14, 2022, respectively. In 2022, President Biden also announced the Americas Partnership for Economic Prosperity, a similar framework that formally began negotiations in January 2023. Discussions continued in 2022 under the U.S.-Japan Trade Agreement, U.S.-EU-Japan Trilateral Partnership, U.S.-Japan Partnership on Trade, Dialogue on the Future of Atlantic Trade, and U.S.-EU Trade and Technology Council.

U.S. Free Trade Agreements

As of December 31, 2022, the United States was party to 14 free trade agreements (FTAs) involving a total of 20 countries (table ES.1).

Table ES.1 U.S. free trade agreements (FTAs) in force as of December 31, 2022

FTA = free trade agreement; TPA = trade promotion agreement.

FTA	Date of signature	Date of entry into force
U.S.-Israel FTA	April 22, 1985	September 1, 1985
U.S.-Jordan FTA	October 24, 2000	December 17, 2001
U.S.-Chile FTA	June 6, 2003	January 1, 2004
U.S.-Singapore FTA	May 6, 2003	January 1, 2004
U.S.-Australia FTA	May 18, 2004	January 1, 2005
U.S.-Morocco FTA	June 15, 2004	January 1, 2006
U.S.-Bahrain FTA	September 14, 2004	August 1, 2006
Dominican Republic-Central America FTA (CAFTA-DR) ^a	May 28, 2004	Various dates
U.S.-Oman FTA	January 19, 2006	January 1, 2009
U.S.-Peru TPA	April 12, 2006	February 1, 2009
U.S.-Korea FTA (KORUS)	June 30, 2007	March 15, 2012
U.S.-Colombia TPA	November 22, 2006	May 15, 2012
U.S.-Panama TPA	June 28, 2007	October 31, 2012
United States-Mexico-Canada Agreement (USMCA) ^b	November 30, 2018	July 1, 2020

Source: USTR, "Free Trade Agreements," accessed April 28, 2023.

Note:

^a CAFTA-DR is an FTA between the United States and six developing economies: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, as well as the Dominican Republic. All parties signed CAFTA-DR on May 28, 2004, except the Dominican Republic, which was signed on August 5, 2004. CAFTA-DR entered into force between the United States and Costa Rica on January 1, 2009, between the United States and the Dominican Republic on March 1, 2007, between the United States and Guatemala on July 1, 2006, between the United States and Honduras and Nicaragua on April 1, 2006, and between the United States and El Salvador on March 1, 2006.

^b On July 1, 2020, the USMCA replaced the North American Free Trade Agreement (NAFTA), which entered into force on January 1, 1994.

U.S. imports under FTAs: The value of U.S. merchandise imports entered under FTA provisions (hereafter FTA imports) increased 16 percent compared to 2021, totaling \$491 billion in 2022. FTA imports accounted for 15.2 percent of U.S. imports from the world. FTA imports from all partners increased in 2022, except for those from Chile, which fell by 7.6 percent. Of the 14 FTAs, imports under the United States-Mexico-Canada Agreement (USMCA) accounted for more than three-quarters of total FTA imports. U.S. imports entered under the USMCA increased by 14.9 percent, while U.S. imports entered under all 13 remaining other FTAs combined increased by 20.0 percent.

FTA utilization rate: In 2022, the utilization rate for U.S. imports across all FTAs was 74.1 percent. FTAs had higher utilization rates than trade preference programs, including AGOA, GSP, CBERA, and NTPP. Chile, Peru, Jordan, and Australia had utilization rates above 90 percent for 2020–22. In addition, other FTA partners, including South Korea, CAFTA-DR, Mexico, and Bahrain, had utilization rates above 80 percent in 2022.

United States-Mexico-Canada Agreement (USMCA) implementation: The USMCA entered into force on July 1, 2020, superseding the North American Free Trade Agreement (NAFTA).

Small and medium-sized enterprises (SMEs): The first Trilateral SME dialogue took place in April 2022, bringing together representatives from small businesses, government, and organizations serving SMEs to discuss best practices and guidance on resources for exporting and importing under the USMCA. In May 2022, the USMCA SME Committee hosted a webinar to provide women-owned SMEs with information on government resources. In July 2022, the USMCA SME Committee convened the SME counselor network to exchange best practices on mentorship and training aimed at helping SMEs and underrepresented communities participate in export markets.

Labor: The USMCA's Labor Chapter and the U.S.-Mexico Facility-Specific Rapid Response Labor Mechanism (RRM) allow the United States to take expedited enforcement actions against individual factories that appear to be denying Mexican workers the right of freedom of association and collective bargaining under Mexican law. In 2022, the United States responded to four petitions under the RRM and requested a second review on one. Three requests were resolved through the RRM, with unions negotiating representation and winning wage increases in some cases.

Environment: In September 2022, the Environment Committee held its second meeting, which included a public session to offer comments and ask questions about USMCA Environment Chapter implementation. USTR convened the Interagency Environment Committee for Monitoring and Enforcement several times during 2022, including to review nine submissions to the Commission for Environmental Cooperation (CEC). The CEC held its Ministerial Meeting in July 2022, focusing on environmental education for sustainable development. In February 2022, USTR announced consultations with Mexico covering concerns with Mexico's protection of the endangered vaquita porpoise, prevention of illegal fishing, and trafficking of the totoaba fish.

USMCA dispute settlement: The principal dispute settlement mechanisms of the USMCA are included in Chapter 10 (Trade Remedies), Chapter 14 (Investment), and Chapter 31 (Dispute Settlement). At the end of 2022, six active cases were under review by binational panels established under Chapter 10, Article 10.12. Four cases challenged the U.S. antidumping and countervailing duty orders on softwood lumber from Canada, and two challenged the USDOC's final antidumping determination on carbon and certain alloy steel wire rod and steel concrete reinforcing bar from Mexico, respectively. Another dispute, filed against the United States in March 2022 and relating to a U.S. antidumping duty order on large diameter welded pipe, was terminated on December 9, 2022, by consent motion. An eighth dispute, in which the United States in 2020 had challenged the Canadian investigating authority's final antidumping determination on gypsum board, was completed.

At the end of 2022, there were three active disputes under Chapter 31, two brought by the United States regarding certain Mexican energy measures and certain Canadian dairy tariff-rate quota measures, respectively, and one brought by Mexico (and later joined by Canada) against the U.S. interpretation of certain automotive rules of origin under the USMCA. Two disputes were resolved during the year. Those disputes were the first of two U.S. disputes against Canada regarding certain Canadian dairy tariff-rate quota measures (the report was released to the parties in December 2021 and released to the public in January 2022), and a dispute brought by Canada against a U.S. safeguard measure on crystalline silicon photovoltaic cells, resolved by the signing of a memorandum of understanding.

NAFTA dispute settlement: The USMCA provides that disputes filed under the NAFTA dispute provisions would continue under those provisions. As of December 31, 2022, five active binational panels remained under NAFTA Chapter 19. Two concern the Commission's determinations in fabricated structural steel from Canada and Mexico. Other active Chapter 19 cases include challenges to the USDOC's antidumping determination on fabricated structural steel from Canada and antidumping and countervailing determinations on softwood lumber from Canada. On July 19, 2022, a NAFTA Binational Panel affirmed the Secretaría de Economía México's fourth determination on remand in the matter of ammonium sulphate from the United States. On June 27, 2022, a NAFTA Binational Panel affirmed the USDOC's determination in the matter of Light-Walled Rectangular Pipe and Tube from Mexico. According to

USMCA Chapter 34, which provides the transitional provisions from NAFTA, these panel reviews may proceed to their completion in accordance with Chapter 19 of NAFTA.

Developments with other FTAs already in force: U.S. officials engaged with a number of FTA partners during 2022. Discussions covered a range of trade- and investment-related issues, including with respect to the labor and environmental provisions included in most of these agreements. A U.S.-funded program supported garment workers in Jordan, including support for a collective bargaining agreement for garment workers and promoting labor standards in the garment sector. Several programs under CAFTA-DR supported labor rights, labor law enforcement, and reducing child labor in the sugar sector and generally. The USDOL posted a labor attaché to the U.S. embassy in Bogotá to monitor labor issues in Colombia. In 2022, the USDOL funded three technical assistance projects in Peru focusing on strengthening labor laws and reducing child labor and forced labor. The United States and Panama agreed on a new environmental cooperation work program for 2023 to 2026.

In 2022, Israel opened its market to imports of U.S. processed meat products. The United States resolved issues with Colombia regarding express shipments. The United States and South Korea also worked through barriers to trade involving U.S. meat and poultry exports, South Korean tariff-rate quotas on agricultural products, automotive regulations, and barriers to legal and financial services. In July 2022, the U.S.-Panamanian Technical Capacity Building Committee held its inaugural meeting.

U.S. Developments with Selected Major Trading Partners in 2022

This report covers U.S. bilateral trade relations in 2022 with selected major trading partners: the EU, Canada, Mexico, China, the UK, and India. The statistics on U.S. trade in goods and services in 2022 can be found in the online [interactive dashboard](#). Table ES.2 presents overall trade with these selected trade partners.

Table ES.2 U.S. merchandise and services trade with major trading partners, 2022

In billions of dollars.

Trading Partner	Total merchandise		Merchandise trade	
	trade	Total services trade	rank	Service trade rank
EU	904.1	411.2	1	1
Canada	793.0	115.9	2	3
Mexico	779.1	76.0	3	6
China	690.3	68.1	4	7
United Kingdom	140.2	155.4	7	2
India	132.7	59.1	10	8

Source: USITC DataWeb/Census, accessed July 5, 2023. Trading partners are listed in order of rank in merchandise trade.

A summary follows of major developments in bilateral trade policies and programs during 2022 with each of the selected major trading partners:

European Union (EU): Major developments in U.S.-EU trade relations in 2022 included engagement under the Trade and Technology Council and improved market access for bivalve shellfish.

Canada: Major developments in U.S.-Canada trade relations in 2022 included continued engagement on Canada’s proposed Digital Services Tax and clean energy policy. A USMCA dispute settlement panel released its final report finding that Canada’s allocation of dairy tariff-rate quotas (TRQs)—by reserving most of the in-quota quantity exclusively for Canadian processors—was inconsistent with its commitments under the USMCA.

Mexico: Major bilateral U.S.-Mexico trade developments in 2022 included activities related to the U.S.-Mexico High-Level Dialogue, which was reestablished in 2021, and discussions of Mexico’s 2020 Corn Decree, which phases out Mexican use and importation of genetically engineered corn and the herbicide glyphosate by 2024. In 2022, the United States also invoked four cases against automotive facilities in Mexico, using the Rapid Response Labor Mechanism under the USMCA.

China: During 2022, major U.S.-China trade developments included the four-year statutory review on the section 301 investigation, reinstatement of U.S. tariff exclusions of section 301 tariffs on imports from China, and the enforcement of the Uyghur Forced Labor Prevention Act, as well as export controls related to advanced computing and semiconductor manufacturing.

United Kingdom (UK): Major developments in U.S.-UK trade relations in 2022 included the launch of the U.S.-UK Dialogue on the Future of Atlantic Trade and the U.S.-UK Comprehensive Dialogue on Technology and Data and the completion of a steel and aluminum agreement.

India: Major developments in U.S.-India trade relations in 2022 included the launch of negotiations of the IPEF, as well as the improved market access for several agricultural products, primarily through the U.S.-India Trade Policy Forum—the principal bilateral mechanism for discussing issues related to trade, investment, labor, and environment.

Chapter 1

Global Trade Environment in 2022

Introduction

Scope and Approach of the Report

This report provides information on the operation of the U.S. trade agreements program for 2022. Section 163I of the Trade Act of 1974 states, “The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.”¹ Section 1 of Executive Order 11846 defines the trade agreements program to include “all activities consisting of, or related to, the negotiation or administration of international agreements which primarily concern trade.”² Section 163(a) of the Trade Act of 1974, which addresses matters that the Office of the U.S. Trade Representative (USTR) must address in its annual report, also identifies matters relating to the trade agreements program.

This report provides information on the activities defined in the executive order and—to the extent appropriate and to the extent that developments were reportable and information was publicly available—the elements set out in section 163(a). This year marks the 74th annual report prepared by the Commission.

Sources

This report is based on primary source materials about U.S. trade programs and administrative actions pertaining to them. These materials chiefly reflect U.S. government reports, *Federal Register* notices, and news releases, including publications and news releases by the Commission and USTR. Other primary sources of information include publications of international institutions, such as the International Monetary Fund (IMF), the World Bank, the Organisation for Economic Co-operation and Development (OECD), the World Trade Organization (WTO), Asia-Pacific Economic Cooperation (APEC), the United Nations, and foreign governments. When primary source information is unavailable, the report draws on professional journals, trade publications, and news reports for supplemental information.

Like past reports, *The Year in Trade 2022: Operation of the Trade Agreements Program* relies on data from the U.S. Census Bureau of the USDOC for U.S. merchandise trade statistics presented in chapters 2 through 6. Most tables in the report present U.S. merchandise trade statistics using “total exports” and “general imports” as measures, except for tables on imports that have entered the United States with a claim of eligibility under trade preference programs and free trade agreements (FTAs), as in chapters 2 and 5. Such data require an analysis of U.S. “imports for consumption”—the total of all goods that have been released by U.S. Customs and Border Protection of the U.S. Department of Homeland Security to

¹ Trade Act of 1974 § 163(c), 19 U.S.C. § 2213(c).

² Exec. Ord. 11846, § 1, 3 C.F.R. 1971–1975 Comp., p. 971.

enter the customs territory of the United States with required duties paid. Chapter 6 also offers data on U.S. services trade. The information on U.S. cross-border total services trade is based on official statistics for 11 broad categories that are published by the USDOC's Bureau of Economic Analysis.

Trade statistics in this report may not always match the data presented in previous reports because much of the trade data used in the report, including U.S. merchandise and services trade data, are revised over time.

Organization of the Report

This report gives an overview of the global trade environment within which U.S. trade policy was conducted in 2022. Chapter 2 covers the administration of U.S. trade laws and regulations in 2022, including trade preference programs. Chapter 3 focuses on U.S. participation in the WTO, including developments in major WTO dispute settlement cases during 2022. Chapter 4 reviews 2022 developments at the OECD and APEC, developments involving trade and investment framework agreements, and other trade initiatives under negotiation. Chapter 5 analyzes U.S. imports under FTAs, summarizes U.S. negotiation of and participation in FTAs in 2022, and highlights developments in the implementation of the United States-Mexico-Canada Agreement. Chapter 6 reviews trade patterns and trade relations with selected major U.S. trading partners.

Global Trade Environment in 2022

Global Macroeconomic Trends in 2022

This section presents an overview of macroeconomic conditions in 2022 using a series of macroeconomic indicators that provide insight into the overall health of U.S. and global economies. In 2022, world growth in gross domestic product (GDP) and manufacturing output slowed from their relatively strong levels of 2021, while inflation increased. Efforts to control inflation, Russia's invasion of Ukraine, rising energy prices, a resurgence in COVID-19 cases in China and measures to combat it, and continued supply chain issues impacted the world economy in 2022.³ In the meantime, conditions improved in the United States and other economies during the second half of 2022, as inflation began to decline and GDP increased in many economies. The U.S. dollar appreciated vis-à-vis most major trading partner currencies but declined in value in the fourth quarter of 2022 compared to the first three quarters.⁴

GDP

Global GDP grew by an estimated 3.4 percent overall in 2022 relative to 2021.⁵ Growth slowed from the strong 6.3 percent increase experienced in 2021, which had followed a 2.8 percent contraction in 2020.⁶

³ IMF, *World Economic Outlook Update*, January 2023, 1.

⁴ Federal Reserve Board of Governors, "Foreign Exchange Rates—H-10 Weekly," April 6, 2023.

⁵ IMF, *World Economic Outlook: A Rocky Recovery*, April 19, 2023, 142.

⁶ IMF, *World Economic Outlook: A Rocky Recovery*, April 19, 2023, 142.

Emerging markets and developing economies experienced higher growth rates (4.0 percent) than did advanced economies (2.7 percent) in 2022 relative to 2021.^{7 8}

Among the major trading partners of the United States, India experienced the highest GDP growth rate in 2022 at 7.2 percent. In 2022, the United Kingdom (UK) and the European Union (EU) also grew faster than the world average of 3.5 percent; and Canada, Mexico, China, and Japan grew slower than the global average (figure 1.1). U.S. GDP increased by 1.9 percent in 2022, a slowdown from the 5.8 percent growth rate in 2021.⁹ In 2022, U.S. GDP contracted in the first half of the year and rebounded in the second half.¹⁰

The IMF attributed slower world economic growth in 2022 to worldwide inflation control measures, Russia's invasion of Ukraine, and slower growth in China in the wake of an increase in COVID-19 cases.¹¹ It noted that many countries experienced strong GDP growth in the third quarter of the year because of higher household spending and business investment, lower transportation costs and fewer supply chain issues, and an easing of energy prices from the initially high prices after Russia's invasion of Ukraine.¹² The IMF, however, noted that growth slowed in most major economies in the fourth quarter.¹³

⁷ IMF, *World Economic Outlook: A Rocky Recovery*, April 19, 2023, 142.

⁸ For additional details on how the IMF classifies economies by level of development, see IMF, WEO database, "Groups and Aggregates Information," April 2023.

⁹ USDOC, BEA, Real Gross Domestic Product and Related Measures: Percent Change from Preceding Period, table 1; October 26, 2023.

¹⁰ USDOC, BEA, "Percent Change From Preceding Period in Real Gross Domestic Product," table 1.1.1, October 26, 2023.

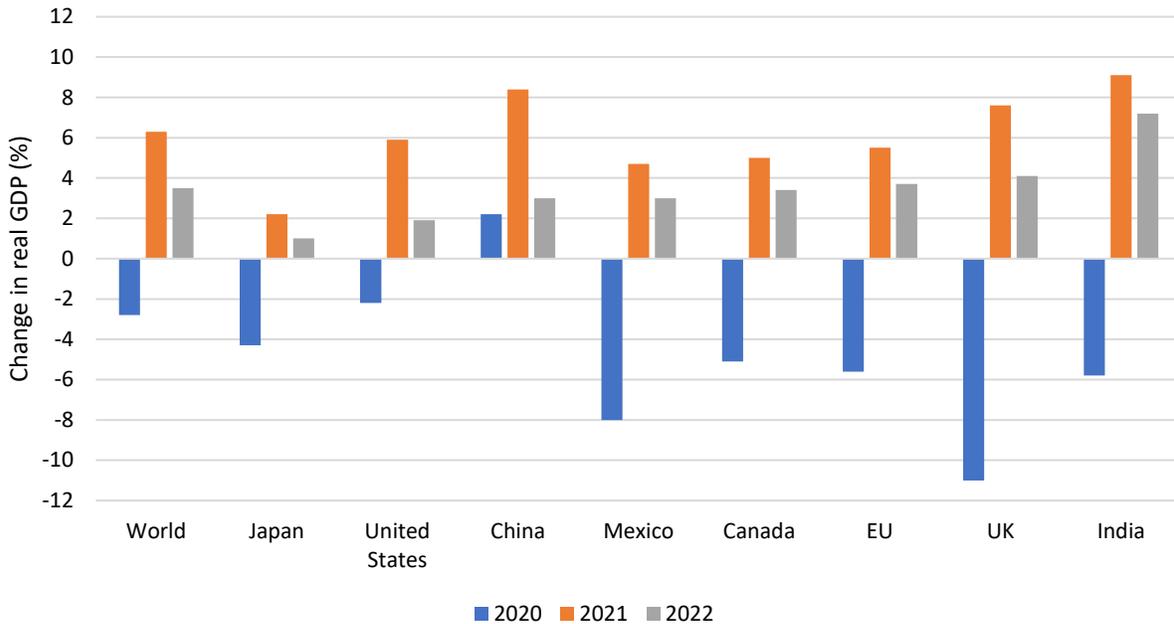
¹¹ IMF, *World Economic Outlook Update*, January 2023, 1.

¹² IMF, *World Economic Outlook Update*, January 2023, 1.

¹³ IMF, *World Economic Outlook Update*, January 2023, 1.

Figure 1.1 Change in real GDP, by the world and selected major economies, annual, 2020–22

In percentages. EU data exclude the UK. Underlying data for this figure can be found in appendix [table A.1](#).



Source: International Monetary Fund (IMF), *World Economic Outlook*, April 11, 2023, 142–147 and July 25, 2023, 4. USDOC, BEA, “National Data, National Income and Product Accounts,” October 26, 2023, Table 1.1.1 “Percent Change From Preceding Period in Real Gross Domestic Product.”

Inflation

Global inflation increased in 2022 relative to 2021, with average consumer prices increasing by 8.7 percent, compared to 4.7 percent the previous year. The IMF noted that world inflation rates declined in the second half of the year, driven by an easing of energy and food prices.¹⁴ Inflation was higher in emerging market and developing economies (9.8 percent) than in advanced economies (7.3 percent) during the year.¹⁵

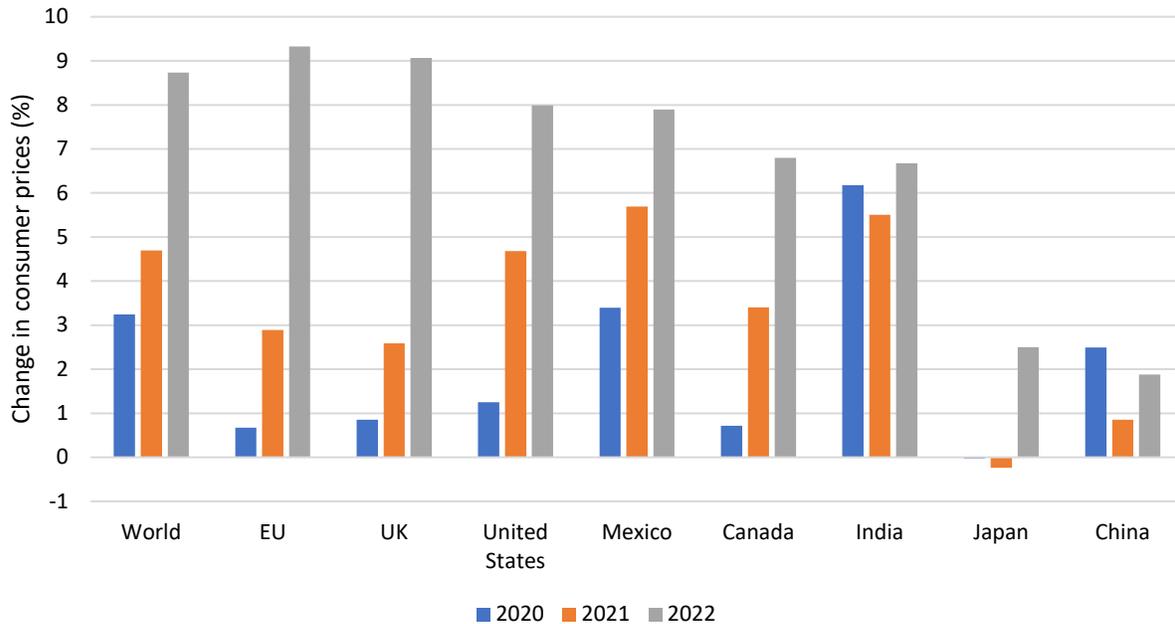
All major U.S. trading partners faced higher inflation in 2022 than in 2021, with the UK and the EU experiencing rates of more than 9 percent annually in 2022 (figure 1.2). Inflation rates were lowest among major U.S. trading partners in Japan, at 2.5 percent, and in China, at 1.9 percent, in 2022. Although below the world average of 8.7 percent, inflation in India, Canada, and Mexico was more than 6 percent in 2022. Consumer prices in the United States rose by 8.0 percent in 2022 compared to a 4.7 percent increase in 2021.

¹⁴ IMF, *World Economic Outlook: A Rocky Recovery*, April 19, 2023, 2.

¹⁵ IMF, *World Economic Outlook: A Rocky Recovery*, April 19, 2023, 9.

Figure 1.2 Change in consumer prices, by the world and selected major economies, annual, 2020–22

In percentages. EU data exclude the UK. Underlying data for this figure can be found in appendix [table A.2](#).



Source: International Monetary Fund, World Economic Outlook Database, “Inflation, average consumer prices, percent change,” April 7, 2023. International Monetary Fund, World Economic Outlook, April 2023, 149-53.

Manufacturing Output

Global manufacturing production grew by 2.9 percent in 2022, slower than the 9.4 percent increase in 2021.^{16 17} Industrial economies experienced lower production output growth, 2.6 percent, in 2022 than industrializing economies, which grew by 5.8 percent.¹⁸ The International Labour Organization (ILO) identified rising energy prices, increased interest rates, and supply chain disruptions as causes of slowing growth in the manufacturing sector.¹⁹

Mexico had the highest manufacturing output growth rate among the largest U.S. trading partners, at 5.3 percent in 2022. The United States and China had similar growth rates at 3.1 percent and Canada and India had slightly higher growth rates at 3.5 and 3.9 percent, respectively (figure 1.3).

¹⁶ USITC staff calculation from ILO data, weighted by each countries’ share of global manufacturing value added (MVA). UNIDO, Quarterly Index of Industrial Production (IIP) database, April 17, 2023. ILO IIP data are from national statistics of 114 countries, which comprise 97.7 percent of global MVA. UNIDO, *World Manufacturing Production, Q4 2022*, March 27, 2023, 13.

¹⁷ UNIDO, *World Manufacturing Production, Quarter IV 2021*, March 8, 2022, 12.

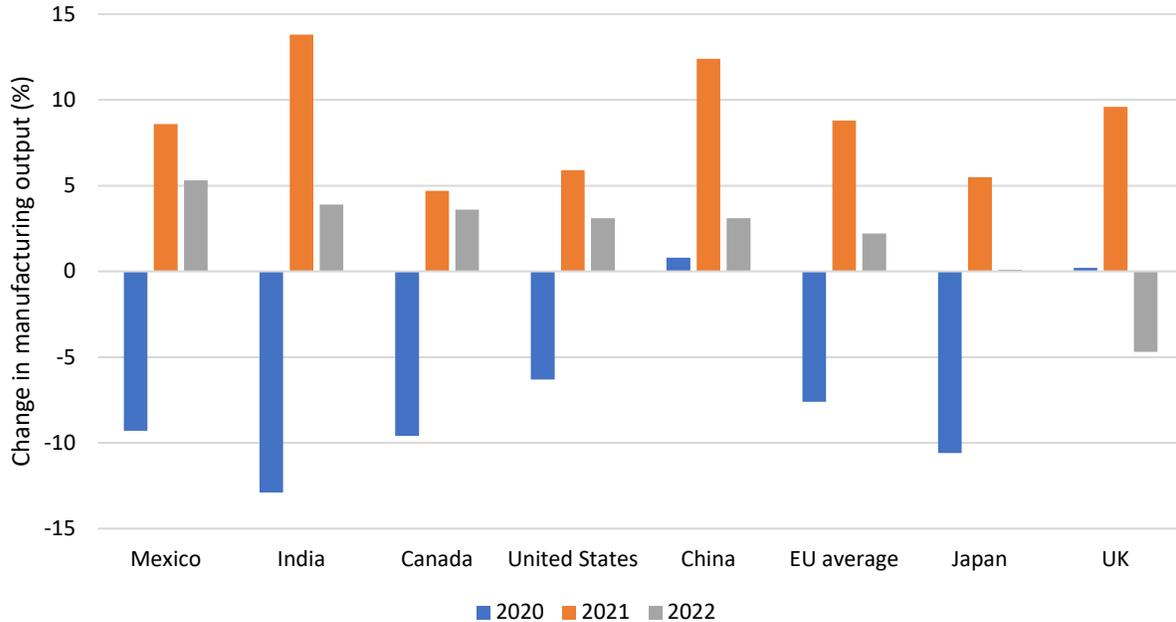
¹⁸ UNIDO, *World Manufacturing Production, Q4 2022*, March 27, 2023, 2. UNIDO, Quarterly Index of Industrial Production (IIP) database, April 17, 2023. Industrial economies make up more than 90 percent of global manufacturing output. UNIDO, *World Manufacturing Production, Q4 2022*, March 27, 2023, 5. For an explanation of industrialized and industrializing economies, see UNIDO, “How Does UNIDO Group Countries by Stage of Development?,” accessed May 24, 2023.

¹⁹ UNIDO, *World Manufacturing Production, Q4 2022*, March 27, 2023, 2.

Manufacturing output grew more slowly than the world average in the EU (2.2 percent) and in Japan (0.1 percent) and contracted by 4.7 percent in the UK.

Figure 1.3 Percentage change in manufacturing output for the United States and selected trading partners, annual, 2020–22

In percentages. EU data exclude the UK. Underlying data for this figure can be found in appendix [table A.3](#).



Source: UN Industrial Development Organization (UNIDO), “Seasonally Adjusted Quarterly Index of Industrial Production (IIP) database,” April 17, 2023.

Note: EU average represents a simple unweighted average manufacturing output growth across 27 member countries.

In 2022, production increases were driven by higher technology industries, while production output in lower technology industries decreased.²⁰ The UN Industrial Development Organization (UNIDO) noted that innovations in digital technologies and high demand for electric components for automobiles and machinery drove production growth in electrical manufacturing equipment.²¹ Electrical equipment; computer, electronic, and optical products; beverages; other transport equipment; motor vehicles; and apparel experienced the largest expansion in manufacturing output (figure 1.4).²² Textiles, furniture, rubber and plastics, and paper products experienced the largest declines in output.

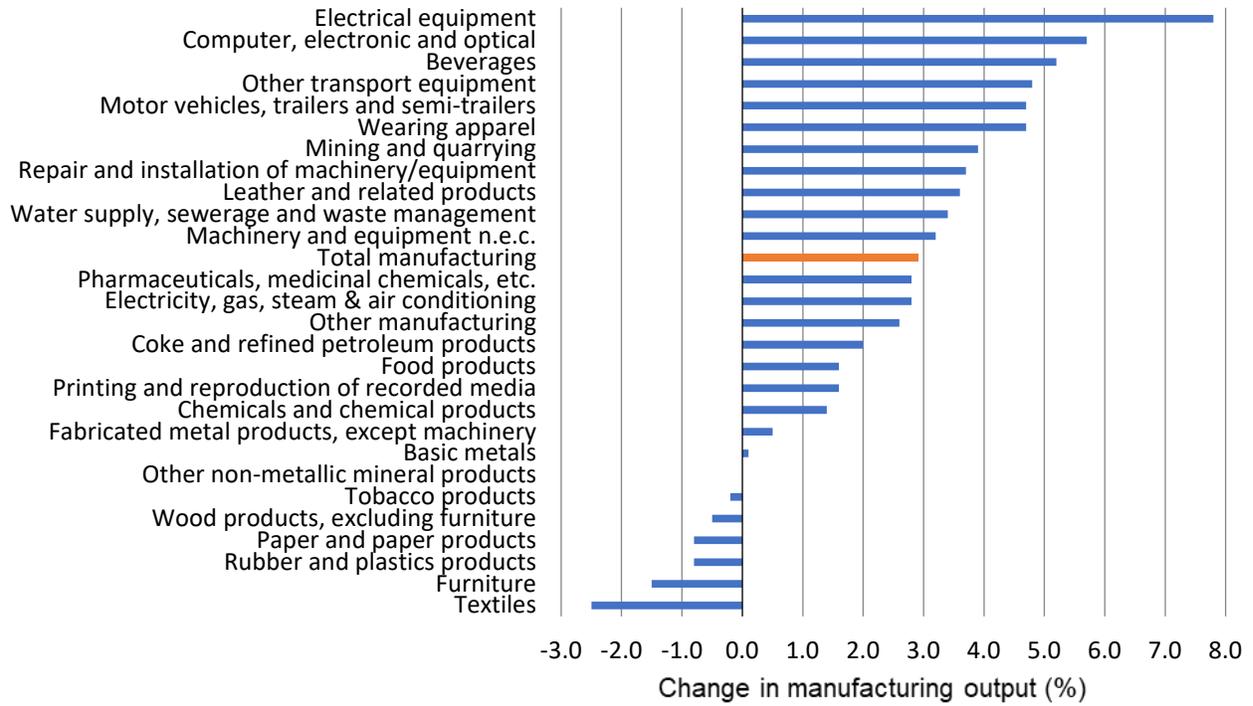
²⁰ The ILO classifies the following industries as medium-high-tech and high-tech industries: electrical equipment, motor vehicles, other transport equipment, pharmaceuticals, machinery, computers and electronics, and chemicals.

²¹ UNIDO, *World Manufacturing Production, Q4 2022*, March 27, 2023, 10.

²² The International Standard Industrial Classification (ISIC) represents an internationally recognized standard for classifying production activities and is maintained by the United Nations Statistics Division. Figure 1.3 depicts an average of industry-level manufacturing output growth in 2022 across countries with available data, weighted by country-specific MVA. The minimum number of countries with available industry-level data to construct the averages featured in figure 1.3 range from 51 for repair and installation of equipment/machinery (ISIC 33) to 113

Figure 1.4 Change in global manufacturing output, by sector, annual, 2021–22

In percentages. ISIC = International Standard Industrial Classification; n.e.c. = not elsewhere classified; underlying data for this figure can be found in appendix [table A.4](#).



Source: UNIDO, “Seasonally Adjusted Quarterly Index of Industrial Production (IIP) database,” April 17, 2023.

Note: IIP measures the growth of the volume of industrial production in real terms, adjusting for price fluctuations.

Labor

Global working hours continued to increase in 2022 from 2020 pandemic lows but remained 1.4 percent below pre-pandemic levels, according to ILO estimates.²³ In 2022, working hours in high-income and upper-middle-income economies were 0.6 and 0.3 percent below 2019 pre-pandemic levels, respectively—improvements from 2021 when they were 3.6 and 0.8 percent below 2019 levels. Lower-middle- and low-income economy working hours were 6.9 and 4.9 percent below pre-pandemic levels, respectively, compared to 6.4 and 4.6 percent below 2019 levels in 2021. The ILO described stronger recovery in employment in high-skilled occupations than in low- and medium-skilled occupations, as of the first half of 2022.²⁴ In the United States, hours worked in 2022 were 3.5 percent higher than in 2021 and were 1.0 percent higher than in 2019.²⁵

for total manufacturing output. UNIDO, “Seasonally Adjusted Quarterly Index of Industrial Production Database,” accessed May 25, 2023.

²³ ILO, Working Hours Lost Due to the COVID-19 Crisis, February 23, 2023. The baseline data are based on the annualized estimates of global working hours in the fourth quarter of 2019.

²⁴ ILO, *ILO Monitor: COVID-19 and the World of Work*, October 31, 2022, 1.

²⁵ USDOC, BEA, Hours worked by full-time and part-time employees; accessed from FRED, Federal Reserve Bank of St. Louis, accessed November 6, 2023.

Foreign Direct Investment (FDI)

Global FDI inflows were lower in 2022 than in 2021, after experiencing a strong recovery in 2021 from 2020 levels. Total FDI inflows decreased 12.4 percent in 2022 from 2021, falling from \$1.5 trillion to \$1.3 trillion.²⁶ The decrease was attributable to a decline in international project finance and cross-border mergers and acquisitions.²⁷ Investments in greenfield projects, however, increased from 2021 to 2022.²⁸

FDI inflows into developing economies increased slightly, by 4.0 percent in 2022 from 2021, reaching a record high of \$916 billion, with Latin America and the Caribbean experiencing particularly strong growth during the year.²⁹ Conversely, FDI inflows into developed economies decreased by 36.7 percent in 2022, after experiencing strong growth of 89.5 percent in 2021.³⁰

FDI inflows into the United States declined by 26.5 percent in 2022 from 2021 (figure 1.5). Despite declining FDI inflows in 2022, the United States remained the top destination for FDI inflows in 2022 (\$285 billion), followed by China (\$189 billion).³¹ The EU experienced negative FDI inflows in 2022.³² FDI inflows into the UK recovered in 2022, after experiencing negative inflows in 2021, but remained well below 2020 levels. China, India, Mexico, and Japan experienced increased FDI growth rates in 2022 from 2021, ranging from 4.5 percent for China to 31.6 percent for Japan (figure 1.5).

²⁶ UNCTAD, *World Investment Report 2023*, July 5, 2023, 4.

²⁷ UNCTAD, *World Investment Report 2023*, July 5, 2023, 3–4.

²⁸ UNCTAD presents data by type of FDI: greenfield projects, international project finance, and cross-border mergers and acquisitions (M&As). UNCTAD, *World Investment Report 2023*, July 5, 2023, 5.

²⁹ UNCTAD, *World Investment Report 2023*, July 5, 2023, 4, 10.

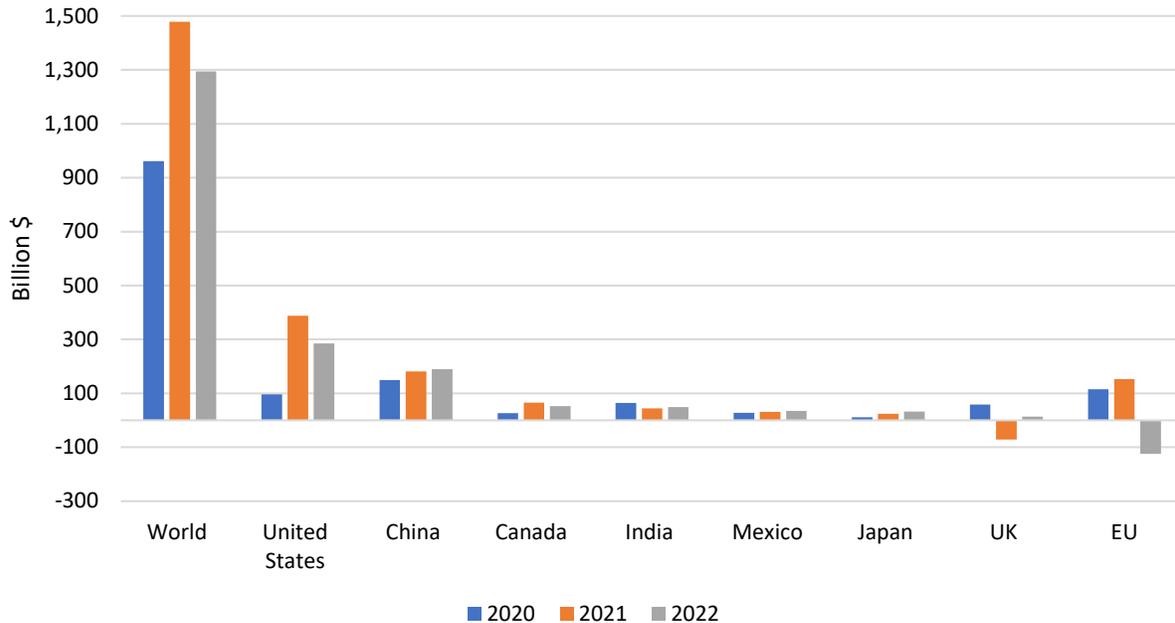
³⁰ UNCTAD, *World Investment Report 2023*, July 5, 2023, 4–6, 8.

³¹ UNCTAD, *World Investment Report 2023*, July 5, 2023, 8.

³² UNCTAD noted that EU FDI inflow values are distorted by fluctuations in “conduit economies and one-off M&A transactions” and that if Luxembourg (which experienced “a large withdrawal of capital by a telecommunication MNE”) is not included in the data, flows into the EU increased by 55.1 percent. UNCTAD, *World Investment Report 2023*, July 5, 2023, 5, 9.

Figure 1.5 FDI inflows, by selected major economies, annual, 2020–22

In billions of dollars. EU data exclude the UK; underlying data for this figure can be found in appendix [table A.5](#).



Source: UNCTAD, *World Investment Report 2023*, July 5, 2023, 196–99.

While global FDI inflows fell, the value of announced greenfield projects grew strongly from 2021 to 2022, by 64 percent, with the value of such projects reaching its second-highest level since 2008.³³ Growth in the value of announced greenfield projects was higher in developing countries (110 percent) than in developed economies (37 percent).³⁴ Large renewable energy projects drove the increase in greenfield project announcements in developing countries.³⁵

All sectors—primary, manufacturing, and services—experienced an increase in the value of announced greenfield projects in 2022.³⁶ The primary sector (\$97 billion in 2022) recorded a striking increase of 618 percent, while the services sector (\$679 billion) rose 68 percent and manufacturing sectors (\$437 billion) rose 37 percent.³⁷ The top industries in 2022 for announced greenfield projects, by value, were energy and gas supply (\$362 billion), electronics and electrical equipment (\$181 billion), and information and communications (\$120 billion).³⁸ Of the top 10 industries by value of announced greenfield projects in 2022, growth was highest in extractive industries (718 percent), basic metals and metal products (249 percent), and energy and gas supply (157 percent).³⁹

³³ UNCTAD, *World Investment Report 2023*, July 5, 2023, 18.

³⁴ UNCTAD, *World Investment Report 2023*, July 5, 2023, 5.

³⁵ UNCTAD, *World Investment Report 2023*, July 5, 2023, 4.

³⁶ The primary sector includes agriculture, forestry, and fishing as well as extractive industries. UNCTAD, “World Investment Report 2023 Web Annex Table 15,” July 5, 2023.

³⁷ UNCTAD, *World Investment Report 2023*, July 5, 2023, 19.

³⁸ UNCTAD, *World Investment Report 2023*, July 5, 2023, 19.

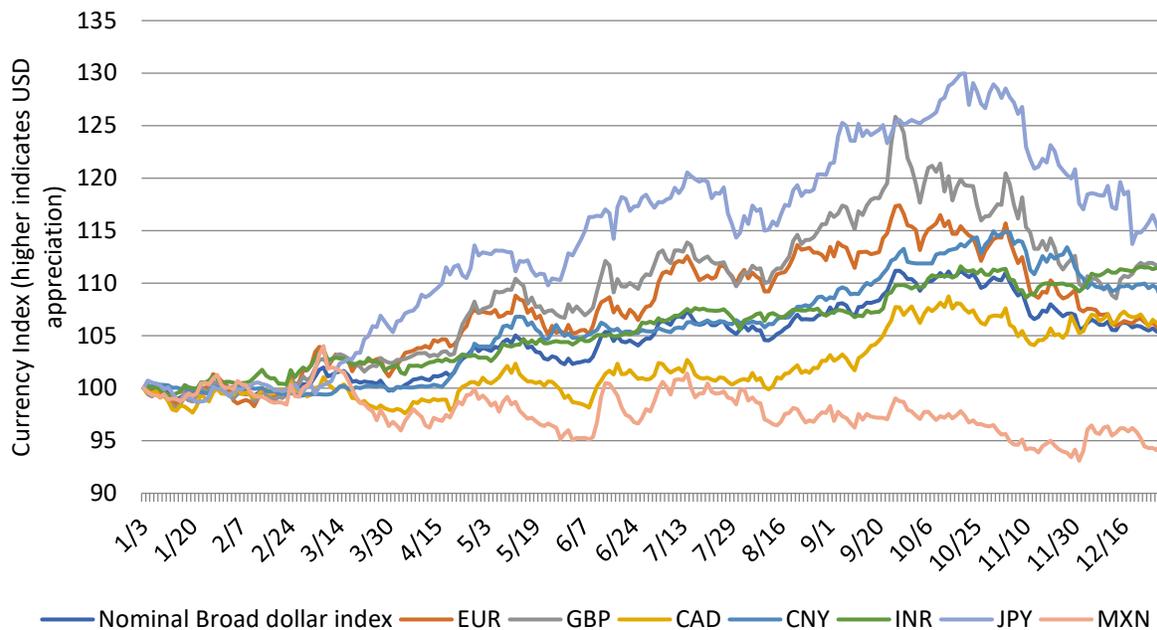
³⁹ UNCTAD, *World Investment Report 2023*, July 5, 2023, 19.

Exchange Rate Trends⁴⁰

The value of the U.S. dollar appreciated at a faster rate during much of 2022, following a general trend of appreciation during 2021 and depreciation in 2020. In 2022, the dollar rose 5.2 percent during the year, according to the Board of Governors of the Federal Reserve System (Federal Reserve Board) broad index of global currencies.⁴¹ The U.S. dollar value peaked in October 2022, at 11.2 percent higher than the beginning of the year. The U.S. dollar appreciated against the currencies of all major U.S. trade partners, except Mexico (figure 1.6). The U.S. dollar experienced the largest gains in 2022 against the Japanese yen (14.3 percent), the British pound (11.5 percent), and the Indian rupee (11.3 percent). Conversely, the U.S. dollar fell in value overall against the Mexican peso during 2022, ending the year 5.2 percent lower, a return to levels of the first quarter of 2020, when the peso rose sharply.

Figure 1.6 Index of U.S. dollar exchange rate, by selected major foreign currencies, daily, 2022

(January 3, 2022 = 100). CAD = Canadian dollar; CNY = Chinese yuan; EUR = Euro; INR = Indian rupee; JPY = Japanese yen; MXN = Mexican peso; GBP = British pound.



Source: Federal Reserve Board of Governors, "Foreign Exchange Rates—H-10 Weekly," April 6, 2023.

Note: This figure shows daily data of currency indexes of U.S. dollar exchange rates for selected major foreign currencies during 2022.

⁴⁰ The fluctuation of exchange rates can affect trade flows by changing the relative price of traded goods in international markets. For instance, when the U.S. dollar appreciates, U.S. exports become more expensive and U.S. imports less expensive. Conversely, when the U.S. dollar depreciates, U.S. exports become less expensive and U.S. imports become more expensive.

⁴¹ The broad dollar index is a weighted average of the foreign exchange values of the U.S. dollar against the currencies of a large group of major U.S. trading partners. Federal Reserve Board of Governors, "Foreign Exchange Rates—H-10 Weekly," April 6, 2023.

Global Trade Trends in 2022

This section provides an overview of trends in global trade in goods and services in 2022, highlighting the major importers and exporters, as well as trade trends in Ukraine and Russia with their main trading partners.

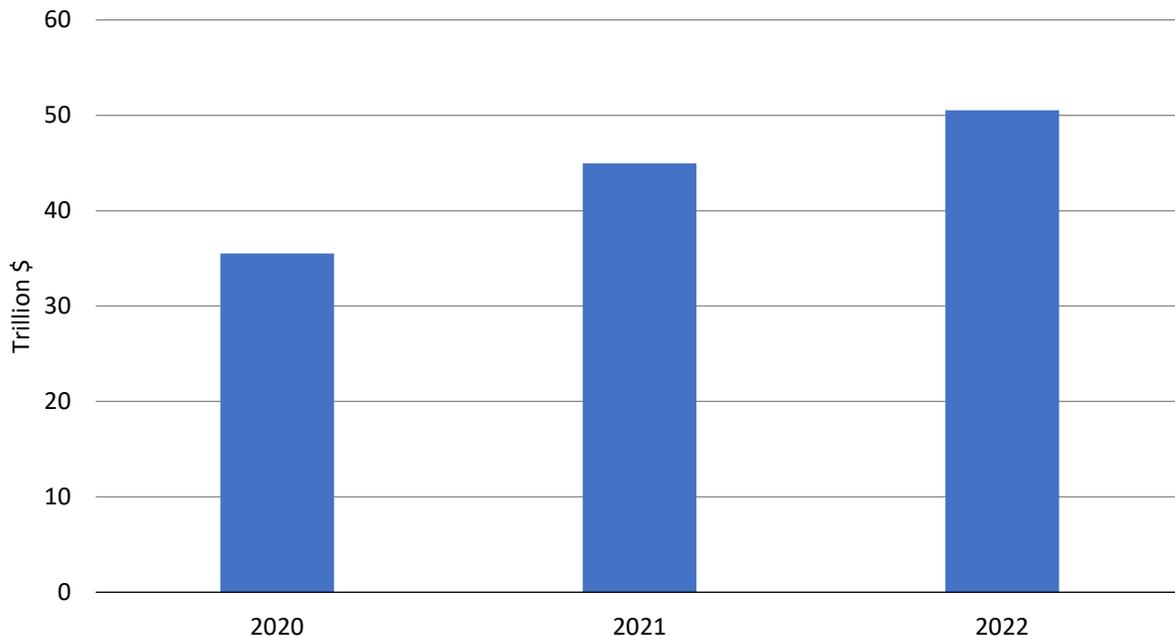
Global Merchandise Trade

Overview of Global Merchandise Trade in 2022

The value of global merchandise trade reached a five-year peak in 2022 (\$50.5 trillion), signaling a recovery from the COVID-19 pandemic and the previous year's supply chain and logistics disruptions (figure 1.7).⁴² Growth in global merchandise trade during the preceding year, however, slowed from 26.6 percent in 2021 to 12.4 percent in 2022. Growth in 2021 was unusually strong as the global economy recovered from the depths of the COVID-19 pandemic, though the slower growth in 2022 also reflects repeated COVID-19-pandemic-related lockdowns in China, Russia's invasion of Ukraine, and ensuing sanctions imposed on Russia.⁴³

Figure 1.7 Global merchandise trade, annual, 2020–22

In trillions of dollars. This figure represents two-way trade, which is the overall total exports and general imports combined. Underlying data for this figure can be found in appendix [table A.6](#).



Source: WTO, WTO Stats portal, International Trade Statistics, Merchandise Trade Values, Annual, accessed April 12, 2023.

⁴² USITC, *The Year in Trade 2021*, August 2022, 55–59.

⁴³ WTO, WTO Stats portal, "International Trade Statistics," Merchandise Trade Values, Annual, accessed April 12, 2023; UNCTAD, *Trade and Development Report, 2022*, October 3, 2022, 54; UNCTAD, *Trade and Development Report, 2023*, April 12, 2023, 7.

In 2022, quarterly global merchandise trade growth peaked in the second quarter just as the Russian invasion of Ukraine was beginning to disrupt international markets, increasing by 3.0 percent compared to the first quarter of 2022 (figure 1.8).⁴⁴ In the following quarters of 2022 quarterly growth contracted, with third quarter 2022 total global merchandise trade down 1.0 percent compared to the second quarter of 2022 and fourth quarter trade down 2.9 percent relative to the third quarter of 2022.⁴⁵ Estimates of global trade growth in 2022 were already expected to cool relative to 2021, given the widespread COVID-19 pandemic-related recovery and abatement of related economic stimulus packages and return to pre-pandemic levels of demand.⁴⁶ Forecasts of persistent and rising inflation and interest rate hikes in major economies like the United States and China further revised expectations of global trade volumes downward. Nonetheless, in 2022, merchandise imports and exports still trended well above pre-pandemic averages for most major economies.⁴⁷

Figure 1.8 Global merchandise trade, quarterly 2008 Q1–2022 Q4

In trillions of dollars. Underlying data for this figure can be found in appendix [table A.7](#).



Source: WTO, WTO Stats portal, “International Trade Statistics,” Merchandise Trade Values, Quarterly, accessed April 12, 2023.

Following aggregate trends, most merchandise sectors grew in terms of annual trade value in 2022.⁴⁸ Most notable among the sectors that experienced strong trade growth were fuels and mining products,

⁴⁴ UNCTADstat, “Global Merchandise and Services Trade Nowcast,” Trade in merchandise (values), accessed November 2, 2023.

⁴⁵ UNCTADstat, “Global Merchandise and Services Trade Nowcast,” Trade in merchandise (values), accessed November 2, 2023.

⁴⁶ UNCTAD, *Trade and Development Report, 2023*, April 12, 2023, 7; UNCTAD, *Global Trade Update: Q1 2022*, February 2022, 1, 3.

⁴⁷ WTO, WTO Stats portal, “International Trade Statistics,” Merchandise Trade Values, Annual, accessed April 12, 2023.

⁴⁸ WTO, *Global Trade Outlook and Statistics*, April 5, 2023, 12.

which increased by 42 percent in aggregate in 2022 compared to 2021, largely due to a 61 percent increase in fuels alone.⁴⁹ The high growth in fuel sector trade was due primarily to a rise in energy prices.⁵⁰ Conversely, the office and telecommunications equipment sector experienced the lowest positive annual growth of 2 percent, and textiles sector trade contracted by 1 percent.⁵¹

Geographically, all regions experienced positive annual growth in exports, imports, and two-way trade in 2022, with the Middle East, Latin America, and Africa growing the most (table 1.2). The paths that each region took varied throughout the year. Most regions began in 2022 having recovered from pandemic lows and even exceeded pre-pandemic levels. In the first quarter of 2022, both advanced and emerging economies demonstrated aggregate contractions in total trade compared to the fourth quarter of 2021.⁵² As quarterly total trade peaked in the second quarter of 2022, so did that of most regions, except for emerging and developing economies in Europe.⁵³ In the third quarter of 2022, however, quarterly growth decelerated for all regions and contracted for some compared to the second quarter of 2022, and quarterly growth further decelerated in the fourth quarter compared to the third quarter of 2022, with the largest declines occurring among Sub-Saharan Africa and the Western Hemisphere.⁵⁴

Table 1.1 Percentage change of merchandise trade, by region, annual, 2021–22

In percentages. Two-way trade is defined as exports plus imports.

Region	Imports	Exports	Two-way trade
Africa	16.3	17.8	17.0
Asia	9.5	7.3	8.3
Europe	15.1	8.6	11.8
Latin America	22.0	16.6	19.4
Middle East	20.3	41.6	32.5
North America	15.7	17.5	16.5
World	13.3	11.5	12.4

Source: WTO, WTO Stats portal, International Trade Statistics, Merchandise Trade Values, Annual, accessed April 12, 2023.

Global Leading Merchandise Exporters and Importers

In 2022, China was the world's largest merchandise exporter, followed by the EU, the United States, Japan, and South Korea (figure 1.9). Exports from a majority of top exporters increased notably from 2021 levels, with the exception of Japan, which declined by 1.2 percent. Of the top five exporters, the United States experienced the largest increase in its exports in percentage change terms (17.5 percent), followed by China (7.0 percent) and South Korea (6.1 percent).⁵⁵ The increase in U.S. exports in 2022 was mainly driven by its largest product grouping, mineral fuels and oils (HS chapter 27). U.S. exports of

⁴⁹ WTO, *Global Trade Outlook and Statistics*, April 5, 2023, 12.

⁵⁰ WTO, *Global Trade Outlook and Statistics*, April 5, 2023, 11.

⁵¹ WTO, *Global Trade Outlook and Statistics*, April 5, 2023, 12.

⁵² IMF, "Direction of Trade Statistics (DOTS)," Exports and Imports by Areas and Countries, accessed November 2, 2023.

⁵³ IMF, "Direction of Trade Statistics (DOTS)," Exports and Imports by Areas and Countries, accessed November 2, 2023.

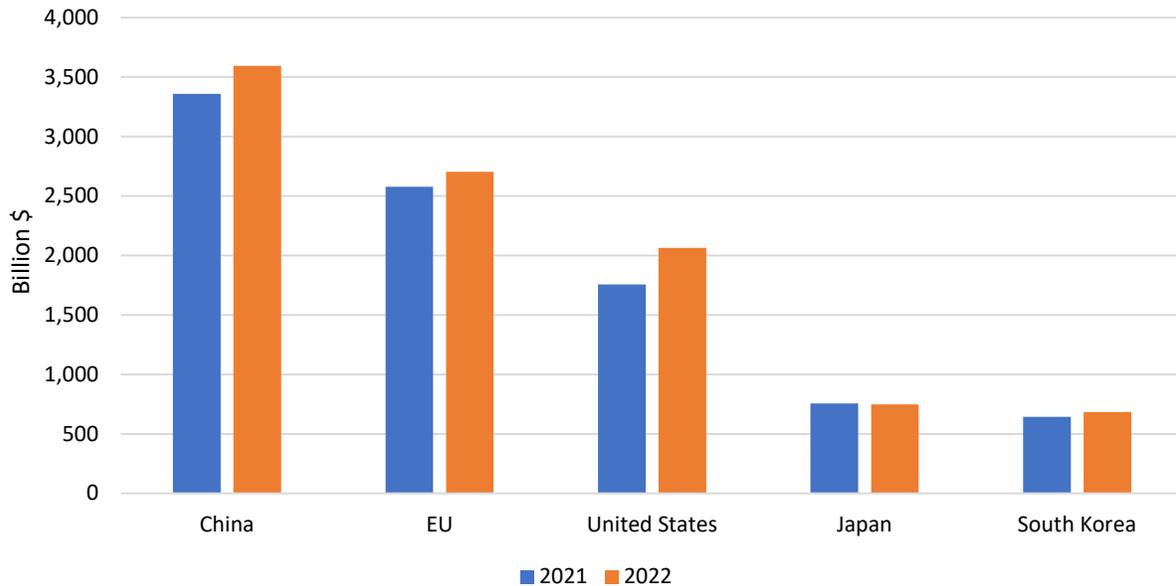
⁵⁴ IMF, "Direction of Trade Statistics (DOTS)," Exports and Imports by Areas and Countries, accessed November 2, 2023.

⁵⁵ WTO, WTO Stats portal, "International Trade Statistics," Merchandise Trade Values, Annual, accessed April 12, 2023.

mineral fuels and oils increased by nearly 60 percent to \$380.1 billion in 2022. This increase accounted for 45.3 percent of the increase in U.S. exports in 2022.⁵⁶

Figure 1.9 Merchandise exporters, by global top five exporters, annual, 2021–22

In billions of dollars. EU data exclude intra-EU trade and the UK for the entire time series; underlying data for this figure can be found in appendix [table A.8](#).



Source: WTO, WTO Stats portal, International Trade Statistics, Merchandise Trade Values, Annual, accessed April 12, 2023; USITC DataWeb/Census, general imports, accessed July 5, 2023.

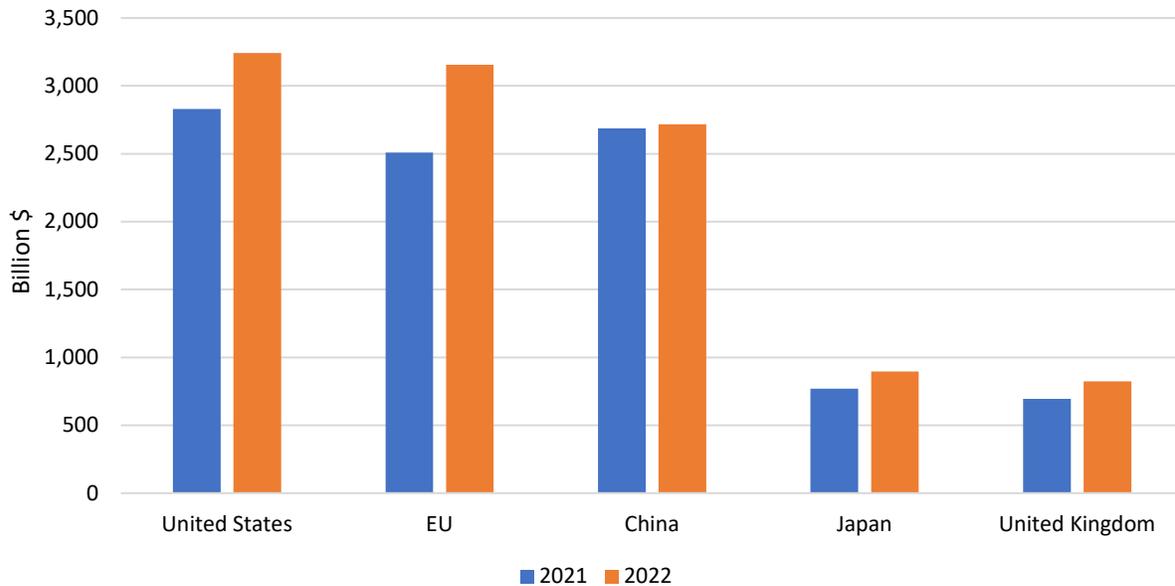
In 2022, the United States remained the world’s largest merchandise importer. The EU was the second-largest merchandise importer, followed by China, Japan, and the UK. Imports increased significantly for top trading partners in 2022 relative to 2021, though the rate of growth varied significantly. The EU’s imports grew by 25.7 percent, followed by the UK’s imports, which grew by 18.6 percent (figure 1.10).⁵⁷

⁵⁶ USITC DataWeb/Census, “Total Exports,” accessed June 23, 2023.

⁵⁷ The top five EU import product groupings in 2022 all experienced increases in imports relative to 2021 and drove the overall increase. These groupings contributed 51.2 percent of total EU imports that year and were mineral fuels and oils (HS chapter 27); electrical machinery and equipment (HS chapter 85); nuclear reactors and machinery (HS chapter 84); vehicles and parts (HS chapter 87); and pharmaceutical products (HS chapter 30). S&P Global, Global Trade Analytics Suite (GTAS) database, accessed June 23, 2023; WTO, WTO Stats portal, “International Trade Statistics,” Merchandise Trade Values, Annual, accessed April 12, 2023.

Figure 1.10 Merchandise imports, by global top five importers, annual, 2021–22

In billions of dollars. EU data exclude intra-EU trade and the UK for the entire time series; underlying data for this figure can be found in appendix [table A.9](#).



Source: WTO, WTO Stats portal, International Trade Statistics, Merchandise Trade Values, Annual, accessed April 12, 2023; USITC DataWeb/Census, general imports, accessed July 5, 2023.

Global Trade in Services

Overview of Global Services Trade in 2022

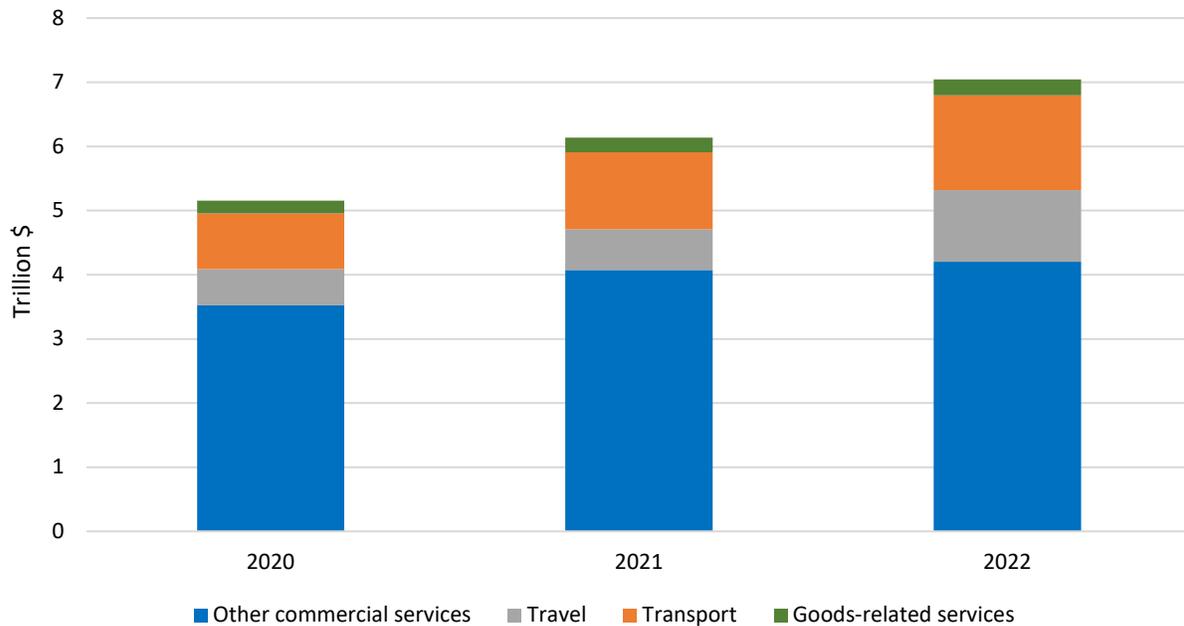
Global exports of commercial services grew to \$7.0 trillion in 2022, a 14.8 percent increase from 2021, largely because of the resurgence in travel services trade after the COVID-19 pandemic-related movement restrictions eased and to a lesser extent transport services trade.⁵⁸ Travel services exports were the fastest growing category of world commercial services exports, which grew by 74.8 percent to \$1.1 trillion from 2021 to 2022 and comprised 15.8 percent of global commercial services exports in 2022 (figure 1.11). Global travel services exports in 2022, however, had not fully recovered to pre-pandemic levels and were \$370.3 billion (24.9 percent) lower than in 2019. Exports in all other major services sectors, especially transport services, increased since 2019. Global transport services exports increased each year following 2020, especially between 2020 and 2021 when they grew by 38.3 percent to \$1.2 trillion. In 2022, global transport services exports reached \$1.5 trillion, 43.6 percent higher than its value in 2019.⁵⁹

⁵⁸ WTO, “International Trade in Commercial Services,” July 25, 2023.

⁵⁹ WTO, “International Trade in Commercial Services,” July 25, 2023.

Figure 1.11 Global commercial services exports, by services trade category, annual, 2020–22

In trillions of dollars. EU data exclude intra-EU trade and the UK; underlying data for this figure can be found in appendix [table A.10](#).



Sources: WTO, WTO Stats portal, International Trade Statistics, Trade in Commercial Services, by Main Sector, Annual, accessed July 25, 2023; USDOC, BEA, International Transactions, International Services, and International Investment Position Tables, table 2.2; “U.S. Trade in Services, by Type of Service and by Country or Affiliation,” June 22, 2023.

Most global commercial service exports were in “other commercial services” (i.e., professional, business, and financial services), which grew 6.0 percent and were 59.7 percent of world exports of commercial services in 2022, down from 66.4 percent in 2021. This decrease was due to the 5.4 percentage point increase in the travel services export share during 2021–22. Export shares for transport services (21.0 percent of global services exports in 2022) and goods-related services exports (3.5 percent) changed by less than 2 percentage points during the same period.⁶⁰

The rebounding growth in travel services exports between 2020 and 2022 is linked to the increase in tourism during the same period. According to an industry source, global tourism revenues increased by 41.0 percent, or \$583 billion, during that time as a result of high demand following a period of repressed international travel resulting from the pandemic.⁶¹ During 2021–22, travel services exports by Europe (up \$213.0 billion or 67.1 percent), North America (up \$83.5 billion or 78.9 percent) and Asia (up \$64.9 billion or 72.1 percent) posted the largest increases. In that same period, travel services imports also increased for the same group, led by Europe (up \$194.1 billion or 75.4 percent) and followed by North America (up \$247.8 billion or 110.3 percent) and Asia (up \$68.0 billion or 38.9 percent).⁶²

South and Central America posted the fastest growth in travel services imports (having increased by 122.0 percent to \$37.9 billion) because of growth in per capita income, a key driver of international

⁶⁰ WTO, “International Trade in Commercial Services,” July 25, 2023.

⁶¹ Ristoff, *Global Tourism*, February 1, 2023, 9, 29.

⁶² WTO, “International Trade in Commercial Services,” July 25, 2023.

tourism consumption.⁶³ The global tourism industry anticipates continued growth in demand for global tourism because of rising per capita incomes, improved consumer sentiment, and the lifting of pandemic-related travel restrictions in China in early 2023. At the same time, the industry also anticipates this growth to be muted, citing economic and geopolitical challenges to Europe, the world's largest tourism region, including the European debt crisis and Russia's invasion of Ukraine as well as the resulting effects on energy prices as concerns for the global tourism industry.⁶⁴

Global transport services (i.e., maritime and air transport) increased by \$282.7 billion. The 2022 increase in global transport services was largely due to increases in global air transport exports (up \$96.8 billion or 36.6 percent) and sea transport exports (up \$54.5 billion or 9.3 percent).⁶⁵ As goods trade relies heavily on maritime transport, the maritime shipping industry greatly benefited from increased consumer demand for tangible goods during the COVID-19 pandemic and shipping companies reported record revenues.⁶⁶ Freight services exports, the largest segment of sea transport services exports, increased by 9.0 percent in 2022, following 54.2 percent growth in 2021.⁶⁷ The United Nations Conference on Trade and Development cited inflation, Russia's invasion of Ukraine, and China's extended pandemic-related restrictions as complicating factors to the slower growth of freight services exports in 2022 compared to 2021.⁶⁸

The international air transport industry predicted increased profits in 2022 due to increased international travel and anticipated record air traffic growth.⁶⁹ Global air transport services exports were predominately passenger air services (40.6 percent) in 2022 followed by air cargo or freight services (26.8 percent). Passenger air services exports grew by 96.6 percent or \$72.0 billion in 2022, up from a 24.1 percent increase in 2021.⁷⁰ Demand for air cargo fully recovered from the pandemic-related downturn by the end of 2020.⁷¹ In 2022, air cargo services exports were 65.5 percent higher than 2019 values.⁷²

Leading Global Services Exporters and Importers

In 2022, the EU was the leading global commercial services exporter, followed by the United States, United Kingdom, China, and India (figure 1.12). All the top five exporters experienced growth in their

⁶³ Ristoff, *Global Tourism*, February 1, 2023, 9.

⁶⁴ EIU, *Tourism Outlook 2023*, 2022, 1; UNWTO, "Tourism Set to Return to Pre-Pandemic Levels," January 17, 2023; Ristoff, *Global Tourism*, February 1, 2023, 9.

⁶⁵ WTO, "International Trade in Commercial Services," July 25, 2023.

⁶⁶ Though crude petroleum prices have also risen during this period, it alone does not explain the full extent of the increases in maritime transport prices. OECD, *International Trade during the COVID-19 Pandemic*, March 10, 2022, 7, 10, 11; USITC, *Recent Trends in U.S. Services Trade*, May 2023, 110.

⁶⁷ WTO, "International Trade in Commercial Services," July 25, 2023.

⁶⁸ UNCTAD, *Review of Maritime Transport 2022*, November 2022, xvii; xxii, 14. For recent trends in U.S. maritime transport services trade, see USITC, *Recent Trends in U.S. Services Trade*, May 2023.

⁶⁹ IATA, *Global Outlook for Air Transport*, December 2022, 2.

⁷⁰ WTO, "International Trade in Commercial Services," July 25, 2023.

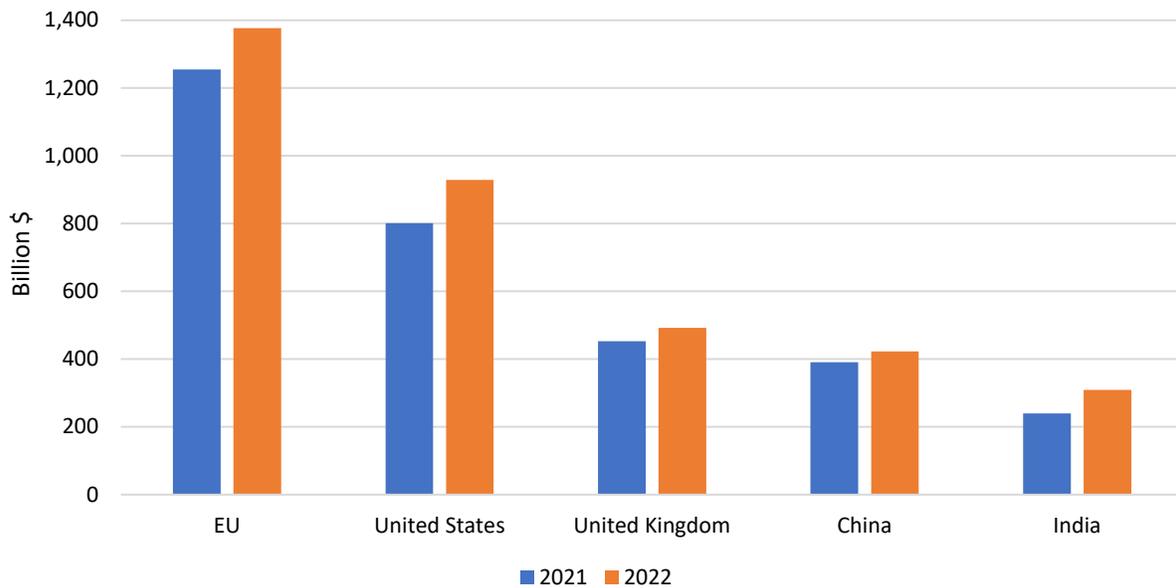
⁷¹ Growth in air cargo demand during the pandemic was due in part to increased consumer demand for goods, seaport congestion, and production delays. This demand was partially met by aviation authorities temporarily permitting passenger airlines to use cabin space for cargo transport. IATA, *Global Outlook for Air Transport*, December 2022, 9–10; Garland, "Air Cargo Gave Congestion-Challenged Shippers a Lifeline in 2021," December 20, 2021.

⁷² WTO, "International Trade in Commercial Services," July 25, 2023.

commercial services exports relative to 2021, surpassing pre-pandemic levels. Of the top five exporters, India experienced the strongest growth in commercial services exports (28.8 percent), followed by the United States (15.7 percent), EU (10.0 percent), United Kingdom (8.8 percent), and China (8.1 percent). The Middle East had the fastest growth in commercial services exports by region, increasing by 47.3 percent between 2021 and 2022, as a result of a 102 percent or \$59.7 billion increase in travel services.⁷³

Figure 1.12 Global commercial services exports by top five global exporters, annual, 2021–22

In billions of dollars. EU data exclude intra-EU trade and the UK; underlying data for this figure can be found in appendix [table A.11](#).



Source: WTO, WTO Stats portal, International Trade Statistics, Trade in Commercial Services, by Main Sector, Annual, accessed July 25, 2023; USDOC, BEA, International Transactions, International Services, and International Investment Position Tables, table 2.2, “U.S. Trade in Services, by Type of Service and by Country or Affiliation,” June 22, 2023.

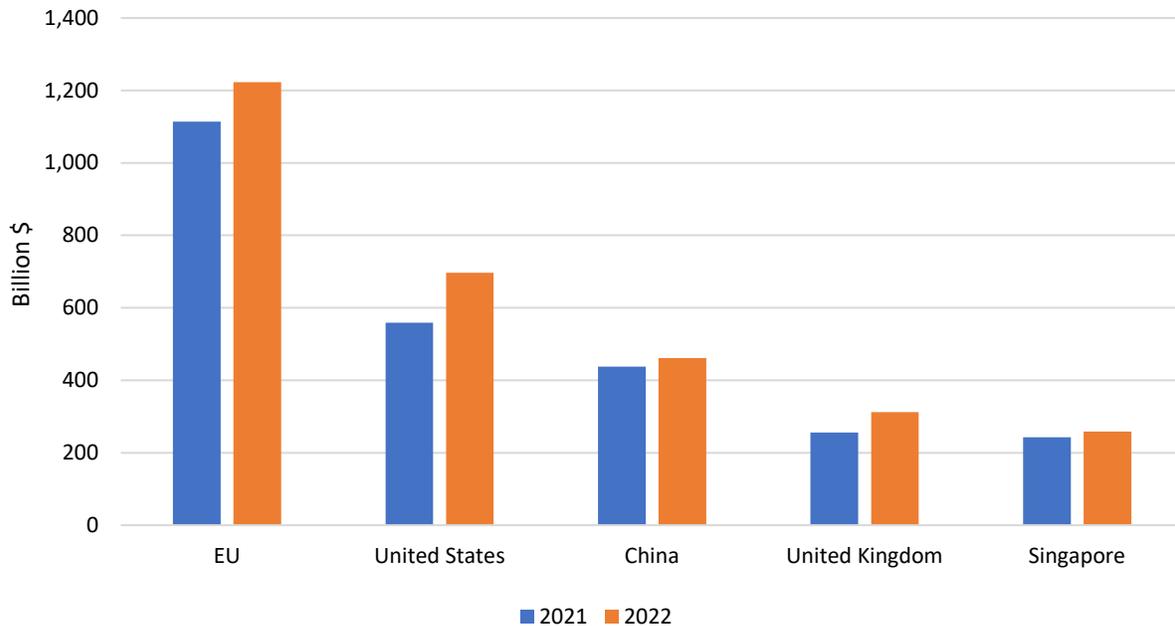
In 2022, the EU was the leading global commercial services importer, followed by the United States, China, United Kingdom, and Singapore (figure 1.13). All the top five importers experienced growth in their commercial services imports relative to 2021. Of the top five importers, the United States experienced the strongest growth in commercial services imports (24.6 percent), followed by the UK (21.9 percent), the EU (9.8 percent), Singapore (6.5 percent), and China (5.3 percent).⁷⁴

⁷³ WTO, “International Trade in Commercial Services,” July 25, 2023.

⁷⁴ WTO, “International Trade in Commercial Services,” July 25, 2023.

Figure 1.13 Global commercial services imports, by top five global importers, annual, 2021–22

In billions of dollars. EU data exclude intra-EU trade and the UK; underlying data for this figure can be found in appendix [table A.12](#).



Source: WTO, WTO Stats portal, International Trade Statistics, Trade in Commercial Services, by Main Sector, Annual, accessed July 25, 2023; USDOC, BEA, International Transactions, International Services, and International Investment Position Tables, table 2.2, U.S. Trade in Services, by Type of Service and by Country or Affiliation, June 22, 2023.

Trade Trends for Ukraine and Russia with Their Main Trading Partners in 2022

Russia's invasion of Ukraine on February 24, 2022, resulted in significant volatility in commodity markets during the first months after the outbreak of war, driven by economic sanctions, trade embargos, and disruptions to Black Sea trade, among other factors. In particular, the sectors in which Russia and Ukraine are major players—energy, fertilizer, and agriculture—were most heavily impacted. The impact of supply shocks on markets moderated in the second half of 2022. Exports from Russia and Ukraine generally decreased in value in 2022, particularly in the agriculture and steel sectors, but Russian export values for energy and fertilizer increased.

Energy

Russia has traditionally been a leading exporter of natural gas, crude petroleum, and coal. After Russia invaded Ukraine and Western sanctions were imposed, the ongoing strain on oil and gas markets—caused by the post-pandemic economic rebound—were further exacerbated.⁷⁵ Energy prices surged, supplies tightened, and established trade relationships were broken.⁷⁶ Even with these shocks, energy

⁷⁵ Gaffen, "How the Russia-Ukraine War Accelerated a Global Energy Crisis," December 15, 2022.

⁷⁶ Gaffen, "How the Russia-Ukraine War Accelerated a Global Energy Crisis," December 15, 2022.

markets showed resilience by finding alternative energy sources, shifting trade flows to other suppliers, and curbing consumption.⁷⁷ Despite economic sanctions imposed on Russian energy exports by the United States and reduced exports of Russian energy products to Western countries, Russia was able to redirect crude petroleum and coal exports to other markets in Asia and generally benefited from higher energy prices in 2022.⁷⁸

Russia is the largest global exporter of natural gas.⁷⁹ In 2021, Russia's largest export market was Europe (74 percent by volume).⁸⁰ Before the Russian invasion, global demand for natural gas had increased because of various factors, including a rebound in economic activity after the pandemic-related lockdowns, countries' transitioning away from nuclear and coal power, and cold weather conditions.⁸¹ European gas markets were especially tight because of limited Russian gas deliveries in late 2021 and low inventory levels.⁸²

After the invasion, pipeline imports (gaseous) from Russia were nearly 80 percent lower, and by summer 2022, Russia's natural gas pipeline exports to Europe had declined to almost 40-year lows.⁸³ Increased imports of liquefied natural gas from other suppliers, particularly the United States, helped to offset this decline.⁸⁴ Increasing demand and limited supply drove up natural gas prices, reaching a record high in 2022.⁸⁵ High natural gas prices curbed global consumption, particularly in the EU, where natural gas consumption was 13 percent lower in 2022, impacting residential, commercial, and industrial users, including fertilizer production.⁸⁶ In 2022, Russian natural gas exports (pipeline and liquid natural gas)

⁷⁷ Some countries accelerated the implementation of renewable energy and increased coal purchases. Europe increased imports of liquid natural gas to replace gaseous pipeline gas. Gaffen, "How the Russia-Ukraine War Accelerated a Global Energy Crisis," December 15, 2022; EIA, "Europe Imported Record Amounts of Liquefied Natural Gas," June 14, 2022; IEA, "Russia's War on Ukraine," accessed April 10, 2023.

⁷⁸ On March 8, 2022, the United States banned the import of Russian oil, liquefied natural gas, and coal. EU sanctions on Russian energy products, particularly coal and oil, did not go into effect until August 2022 and December 2022, respectively. The G7's price cap on crude petroleum did not take effect until December 2022 (see below). White House, "United States Bans Imports of Russian Oil, Liquefied Natural Gas, and Coal," March 8, 2022. Moens and Kijewski, "Western Sanctions Didn't Stop the War. Were They Worth It?," February 20, 2023.

⁷⁹ EIA, "Europe Is a Key Destination for Russia's Energy Exports," March 14, 2022.

⁸⁰ Specifically, exports were to Germany, Italy, Belarus, and France. Europe is defined as European countries that are members of the Organisation for Economic Co-operation and Development (OECD). EIA, "Europe Is a Key Destination for Russia's Energy Exports," March 14, 2022.

⁸¹ Cold weather can lead to an increase in demand for heating energy, which increases natural gas demand by electric power plants. IEA, *Gas 2020*, June 2020, 9; Fernández Alvarez, Molnar, "What Is Behind Soaring Energy Prices," October 12, 2021.

⁸² EIA, "Natural Gas Weekly Update," September 30, 2021.

⁸³ According to IEA, October 2022 Russian pipeline deliveries were 80 percent lower compared to last year's levels. EIA, "Russia's Natural Gas Pipeline Exports to Europe Decline to Almost 40-Year Lows," August 9, 2022; IEA, "Frequently Asked Questions on Energy Security," November 16, 2022.

⁸⁴ BP, *Statistical Review of World Energy*, 2022, 36; Energy Institute, *Statistical Review of World Energy*, 2023, 37; EIA, "U.S. Liquefied Natural Gas Exports to Europe Increased," June 7, 2022; EIA, "Europe Imported Record Amounts of Liquefied Natural Gas," June 14, 2022.

⁸⁵ In 2022, average annual natural gas prices increased by 135 percent in Europe. IMF, "Global Price of Natural Gas, EU [PNGASEUUSD],"⁸⁵ accessed from FRED, November 17, 2023. Eurostat, "Electricity & Gas Hit Record Prices in 2022," April 26, 2023.

⁸⁶ Zeniewski, Molnar, and Hugues, "Europe's Energy Crisis," March 14, 2023.

decreased by 31 percent (in terms of volume).⁸⁷ Despite this decrease in volume, sources indicate that Russian natural gas export revenues reached record levels in 2022.⁸⁸

As the second-largest global exporter of crude petroleum, Russia's largest 2021 export markets were Europe (49 percent by volume) and China (almost 30 percent).⁸⁹ Despite EU sanctions imposed in June 2022, sources indicate that Russia's global oil sales have held up relatively well, because Russia rerouted shipments of crude petroleum to Asia.⁹⁰ After the June 2022 sanctions, the EU increased crude imports from the United States and Saudi Arabia.⁹¹ In March and April 2022, following the Russian invasion of Ukraine, global oil prices rose sharply, delivering record export revenues to Russia.⁹² Despite easing prices during the remainder of the year, importing country data indicate that global imports of Russian crude petroleum increased by \$28.5 billion (25 percent) in 2022.⁹³ In December 2022, a price cap on Russian oil that the Group of 7 (G7) leaders agreed to earlier in the year, took effect and required Russia to sell oil at a discount relative to global prices in order to access maritime services necessary for the transport of Russian oil.⁹⁴

⁸⁷ Energy Institute, *Statistical Review of World Energy Data*, "Gas—Inter-regional trade," 2023.

⁸⁸ European Gas Hub, "Russian Gas Exports to Europe Down by 20 Percent," May 16, 2023; Yermakov, "'Catch 2022' for Russian Gas," January 2023, 11-12.

⁸⁹ Europe is defined as European countries that are members of the OECD. EIA, "Europe Is a Key Destination for Russia's Energy Exports," March 14, 2022.

⁹⁰ In June 2022, the EU adopted sanctions that prohibit the import of seaborne crude petroleum and other refined petroleum products from Russia to the EU, effective December 5, 2022, and February 5, 2023, respectively. Sources estimate that these restrictions on seaborne oil imports will cover about 90 percent of Russian oil imports to Europe. Russian oil exports to the EU, the UK, the United States, and OECD Asia countries decreased; exports to China, India, Turkey, and other nations increased. European Council, "EU Sanctions against Russia Explained," April 14, 2023. IEA, "Frequently Asked Questions on Energy Security," November 16, 2022.

⁹¹ Angola and Norway were also sources of additional EU crude petroleum imports in 2022. HS subheading 2709. S&P Global, GTAS database, accessed June 12, 2023.

⁹² Mitrova, "Q&A: Understanding the Impact of Sanctions on the Russian Oil and Gas Sector with Limited Data," September 29, 2022; Tankersley, "An Untested Oil Price Cap Has Helped Choke Revenue to Russia," May 18, 2023.

⁹³ The increase in value was driven primarily by higher 2022 prices; however, 2022 crude petroleum export volumes increased as well with sources indicating a year-over-year increase of 7–8 percent. In April 2022, Russia's Federal Customs Service suspended the publication of import and export data to "exclude errors and speculation" and to limit visibility into the efficacy of sanctions and informing of new sanctions. As a result, the figure referenced in the text and other 2022 estimates of Russian trade S&P Global GTAS database have been estimated using importing country data. HS subheading 2709. S&P Global, GTAS database, accessed June 16, 2023. Reuters, "Russia Suspends Publication of Import-Export Data," April 21, 2022; Kantchev, "Russia Blocks Economic Data, Hiding Effect of Western Sanctions," April 23, 2022; Mitrova, "Q&A: Understanding the Impact of Sanctions on the Russian Oil and Gas Sector with Limited Data," September 29, 2022; Lee, "Russian Oil Flows Dive, Hurting Putin's War Chest," September 20, 2022; Yermakov, "Russian Oil Output Increases in 2022," July 2023. Energy Institute, *Statistical Review of World Energy Data*, "Oil—Trade 2021 and 2022," 2023.

⁹⁴ The aim of the price cap was to hinder Russia's oil revenues without negatively impacting global oil supplies. For more information on how the price cap works, see: Rosenberg and Van Nostrand, "The Price Cap on Russian Oil," May 18, 2023. Tankersley, "An Untested Oil Price Cap Has Helped Choke Revenue to Russia," May 18, 2023.

Russia is the third-largest global coal exporter.⁹⁵ In 2021, Russia's largest coal export markets were Europe (32 percent by volume) and China (25 percent).⁹⁶ In response to a sharp decline in coal imports from Russia, Europe increased coal imports from other sources in 2022, including South Africa, Colombia, Kazakhstan, and Indonesia.⁹⁷ Russian coal sales surged after it invaded Ukraine, redirecting EU shipments to Turkey and Asia.⁹⁸ China increased coal imports from Russia by 20 percent, in large part because of attractive prices.⁹⁹ Coal use has increased around the world, because high natural gas prices caused countries to turn to coal, which is not as expensive.¹⁰⁰ On August 10, 2022, the EU's ban on Russian coal imports took effect, barring imports into the EU as well as the provision of services, such as transit, finance, and insurance, needed to transfer coal to non-EU customers.¹⁰¹ As a result, shipowners faced challenges to reinsuring such exports, which impeded and increased the cost of Russian coal exports to non-EU markets.¹⁰² To stabilize energy markets, the European Commission clarified in September 2022 that the provision of services necessary to transfer coal outside the EU was permitted, allowing Russian coal shipments to non-EU markets to resume.¹⁰³ Global imports of Russian coal increased by \$14.3 billion (54 percent) in 2022.¹⁰⁴

Fertilizer

Fertilizer production is heavily concentrated in certain countries because the natural resources and necessary capital for production are available.¹⁰⁵ As a result, the fertilizer sector is vulnerable to trade shocks. Russia, Canada, the EU, China, and Belarus—the world's five largest exporters—account for more than 60 percent of all fertilizer exports.¹⁰⁶ Countries in the conflict region—specifically Russia and Belarus—are important producers and exporters of fertilizer inputs, accounting for 23 percent of global

⁹⁵ EIA, "Europe Is a Key Destination for Russia's Energy Exports," March 14, 2022.

⁹⁶ For this figure, Europe is defined as European countries that are members of the OECD. Fifty-three percent of Russian coal exports went to Asia and Oceania in 2021, including China, South Korea, and Japan. EIA, "Europe Is a Key Destination for Russia's Energy Exports," March 14, 2022.

⁹⁷ European coal imports had been on a downward trend since 2012 as countries transitioned away from coal, but increased in 2021 and 2022, as high natural gas prices pushed utility firms to seek cheaper alternatives to high natural gas prices. HS subheading 2701. S&P Global, GTAS database, accessed May 30, 2023. Economist, "Why the War in Ukraine Is Driving up Europe's Use of Coal," May 9, 2022, 1.

⁹⁸ Bloomberg, "Russian Coal Exports Bounce Back," December 7, 2022.

⁹⁹ Increased coal imports from Russia were also supported by China's embargo on Australian coal. Reuters, "China's Coal Imports from Russia Fall in Dec, but up 20% in 2022," January 19, 2023; Coal Hub, "China Sharply Increased Russian Coal Imports in 2022," January 20, 2023.

¹⁰⁰ Economist, "Why the War in Ukraine Is Driving up Europe's Use of Coal," May 9, 2022; Bloomberg, "Russian Coal Exports Bounce Back," December 7, 2022.

¹⁰¹ Bloomberg, "Russian Coal Exports Bounce Back," December 7, 2022.

¹⁰² Bloomberg, "Russian Seaborne Coal Exports Effectively Halted by EU Ban," August 25, 2022.

¹⁰³ Bloomberg, "Russian Coal Exports Bounce Back," December 7, 2022.

¹⁰⁴ Estimated using importing country data. HS subheading 2701. S&P Global, GTAS database, accessed June 16, 2023.

¹⁰⁵ China, Russia, the United States, India, and Canada are the world's five largest fertilizer producers (60 percent). Jenkins, "How the Russia-Ukraine War Helped Fuel Record Fertilizer Prices," October 4, 2022. USDA, FAS, *Impacts and Repercussions of Price Increases on Fertilizer*, June 30, 2022, 3.

¹⁰⁶ USDA, FAS, *Impacts and Repercussions of Price Increases on Fertilizer*, June 30, 2022, 5. Hebebrand and Glauber, "The Russia-Ukraine War after a Year," March 9, 2023.

fertilizer exports.¹⁰⁷ In particular, Russia accounted for 22 percent of global nitrogen fertilizer exports in 2021 (by value) and 13 percent of phosphate exports.¹⁰⁸ Combined, Russia and Belarus accounted for 36 percent of global potash exports.¹⁰⁹

At the time of Russia’s invasion of Ukraine, global fertilizer supplies were already tight.¹¹⁰ After the invasion, several factors, including disruptions to natural gas flows, restrictions on fertilizer trade, economic sanctions, and disruptions to trade transit, further exacerbated tight global fertilizer supplies.¹¹¹ The disruptions to natural gas trade caused energy prices to increase further, which led to reduced industrial production of fertilizer inputs, because the manufacture of mineral fertilizers is highly energy intensive.¹¹² In particular, the European energy crisis (see energy section above) caused fertilizer plants in Europe to close or cut back production in 2022.¹¹³

In addition, in response to international sanctions, Russia imposed export quotas on fertilizer through 2022 to reserve supplies for domestic farmers, effectively removing nearly 13 percent of the global

¹⁰⁷ According to a report by the U.S. Department of State, Belarus facilitated and supported Russia’s invasion of and war against Ukraine by allowing Russian troops to stage part of their initial invasion of Ukraine from Belarusian territory and allowing Russia to station missile launchers, airplanes, and other munitions to attack Ukrainian targets from Belarusian territory. As a result, the United States, the UK, and the EU placed sanctions against Belarus in 2022. Sullivan, “Why Belarus Is so Involved in Russia’s Invasion of Ukraine,” March 11, 2022; Jenkins, “How the Russia-Ukraine War Helped Fuel Record Fertilizer Prices,” October 4, 2022; USDOS, Belarus 2022 Human Rights Report, March 20, 2023; U.S. Treasury, “U.S. Treasury Targets Belarusian Support for Russian Invasion of Ukraine,” February 24, 2022.

¹⁰⁸ The 2021 phosphate export share is estimated using importing country data because 2021 export data are not available for Belarus. This value may be an underestimate. Exporting country data estimates indicate that Russia and Belarus’ share of global phosphate exports to be 42 percent in 2020. HS subheading 2814.10, 3102.10, 3102.30, 3102.80., 3105.30, and 3105.40. S&P Global, GTAS database, accessed June 16, 2023.

¹⁰⁹ “Potash” refers to potassium fertilizers. HS subheading 3104.20. S&P Global, GTAS database, accessed June 20, 2023. Hebebrand and Glauber, “The Russia-Ukraine War after a Year,” March 9, 2023; Mikkelsen, “What Is Potash?,” accessed August 8, 2023.

¹¹⁰ Fertilizer supplies began tightening in 2020, caused by COVID-19-related labor shortages that dampened natural gas production. Furthermore, unfavorable weather events in 2021 negatively impacted natural gas production and fertilizer production in the United States. In addition, some countries—such as China—restricted fertilizer exports to ensure availability for domestic consumption. Jenkins, “How the Russia-Ukraine War Helped Fuel Record Fertilizer Prices,” October 4, 2022. Hebebrand and Glauber, “The Russia-Ukraine War after a Year,” March 9, 2023.

¹¹¹ In addition to being an important source of energy, natural gas is used as a feedstock to produce ammonia, the building block for all nitrogen fertilizers. Hebebrand and Glauber, “The Russia-Ukraine War after a Year,” March 9, 2023; Jenkins, “How the Russia-Ukraine War Helped Fuel Record Fertilizer Prices,” October 4, 2022; American Gas Association, “Natural Gas Critical to Agriculture Sector,” March 22, 2023.

¹¹² Mineral fertilizers—which includes the fertilizers discussed in this section—are produced from materials mined from naturally occurring nutrient deposits, or from the fixation of nitrogen from the atmosphere into plant-available forms. As a comparison, organic fertilizers are derived from plant matter, animal excreta, sewage, and food waste, generally in the form of animal manure, green manure, and biosolids. To illustrate the energy-intensiveness of mineral fertilizer manufacturing, natural gas accounts for 70–80 percent of the operating costs of producing ammonia, which is the starting point for all mineral nitrogen fertilizers. As such, fertilizer and energy prices are closely correlated. Levi and Molnar, “How the Energy Crisis Is Exacerbating the Food Crisis,” June 14, 2022; International Fertilizer Association, “Organic and Mineral Fertilizers,” accessed August 2, 2023.

¹¹³ High natural gas prices made it cheaper to import ammonia—from which nitrogen products are made—into Europe than to produce it and incur energy costs. In addition, Europe decreased fertilizer production in fall 2022 to reduce gas use and build gas reserves ahead of the winter season. Gebre and Elkin, “Fertilizer Usage Is Being Pummeled,” August 17, 2022. Terazono, “Russian Fertiliser Export Revenue Surged 70%,” January 15, 2023.

supply.¹¹⁴ Furthermore, though fertilizer exports from Russia and Belarus are exempt from Western sanctions, it is possible that fertilizer trade was dampened because importers wanted to avoid the added costs of doing business in the region.¹¹⁵ Restrictions on using EU territory for transit and the closure of an ammonia pipeline contributed to a significant decrease in potash exports from Belarus and ammonia exports from Russia, respectively.¹¹⁶

The largest fertilizer importers are Brazil, the United States, China, and India. Most countries rely, in part, for their fertilizer needs on the relatively few countries producing large amounts of fertilizer. The majority of fertilizer-importing countries imported at least 50 percent of their fertilizer needs.¹¹⁷ Russia's main fertilizer trading partners are Brazil, the EU, the United States, China, and Morocco.¹¹⁸ In most cases, these trading partners increased imports from other suppliers to make up for or offset the decrease in fertilizer imports from Russia.¹¹⁹

Fertilizer prices increased sharply in 2021, driven by the tight fertilizer supply conditions described above, and reached peak levels in spring 2022, following Russia's invasion of Ukraine.¹²⁰ High prices, however, led to reduced fertilizer demand from farmers in 2022, which relieved some of the upward pressure on prices in the second half of the year.¹²¹ In addition, the Black Sea Grain Initiative, which began in July 2022 (see below), facilitated the resumption of Russian fertilizer exports, easing some of

¹¹⁴ In December 2022, Russia extended the fertilizer export restrictions to May 31, 2023, and extended them again to November 30, 2023. Reuters, "Russia Extends Quotas for Fertiliser Exports to Help Domestic Farmers," May 31, 2022; Jenkins, "How the Russia-Ukraine War Helped Fuel Record Fertilizer Prices," October 4, 2022; Government of Russia, "Government Has Set Quotas for the Export of Mineral Fertilizers," May 29, 2023.

¹¹⁵ U.S. and EU sanctions exclude agriculture and fertilizer commodities in order to minimize disruptions to global food security. EU sanctions, however, ban potash imports from Belarus and prohibit transit of Belarussian potash through EU territory to other markets. Additional costs include those associated with, for example, restrictive banking regulations, higher insurance costs, or the risk of being entangled in financial sanctions. CRS, *The Economic Impact of Russia Sanctions*, December 13, 2022. European Council, "EU Sanctions against Russia Explained," April 14, 2023. Terazono, "Russian Fertiliser Export Revenue Surged 70%," January 15, 2023. Hebebrand and Glauber, "The Russia-Ukraine War after a Year," March 9, 2023.

¹¹⁶ The Tolyatti ammonia pipeline—which can transport 2.5 million tons of ammonia per year from Russia to the Ukraine port city of Odessa—has been idle since the start of the Russia's invasion of Ukraine. Hebebrand and Glauber, "The Russia-Ukraine War after a Year," March 9, 2023. Shakin, "Togliatti-Odessa Ammonia Pipeline May Be Restarted Soon," December 9, 2022.

¹¹⁷ Hebebrand and Glauber, "The Russia-Ukraine War after a Year," March 9, 2023.

¹¹⁸ Russia's and Belarus's biggest potash export markets are Brazil and China. For other fertilizers, Russia's largest destination markets are Brazil and the EU (urea); the EU, and Morocco (ammonia); and Brazil and the EU (phosphate fertilizers). HS subheading 3104.20, 3102.10, 2814.10, 3105.30 and 3105.40. S&P Global, GTAS database, accessed May 29, 2023.

¹¹⁹ For potash, Brazil and China sought out alternative suppliers, with Canada offsetting much of the decline. For urea, Brazil increased imports from Nigeria, Oman, Venezuela, Bolivia, and Saudi Arabia. For ammonia, Morocco expanded its suppliers to include nontraditional sources, such as Saudi Arabia and Egypt, and Belgium increased imports from Trinidad and Tobago, Indonesia, the United States, and Saudi Arabia. HS subheading 3104.20, 3102.10, and 2814.10. S&P Global, GTAS database, accessed May 29, 2023. Glauber and Laborde, "How Sanctions on Russia and Belarus Are Impacting Exports of Agricultural Products and Fertilizer," November 9, 2022.

¹²⁰ Fertilizer prices had been rising since late 2020, driven by rebounding demand in 2020/21 following COVID-19 lockdowns, increasing prices of natural gas and coal, and labor shortages, which hindered production. AMIS, *AMIS Market Monitor, Issue 94*, December 2021, 12. AMIS, *AMIS Market Monitor, Issue 100*, July 2022, 15. Hebebrand and Glauber, "The Russia-Ukraine War after a Year," March 9, 2023.

¹²¹ Hebebrand and Glauber, "The Russia-Ukraine War after a Year," March 9, 2023.

the pressure on supply. As a result, prices gradually decreased in the second half of 2022 but remained elevated.¹²² In 2022, the value of global imports of Russian fertilizers and fertilizer inputs increased by \$6.7 billion (47 percent).¹²³

Agricultural Products

Russia's invasion of Ukraine exacerbated the ongoing global food crisis and food price inflation that had begun in 2021.¹²⁴ In particular, the war greatly impacted commodity markets for wheat, corn, sunflower oil, sunflower meal, and barley—all of which Russia and Ukraine export. The large majority of Ukrainian agricultural exports were impeded following Russia's invasion of Ukraine because Ukraine's Black Sea ports were blocked. In addition, although U.S. and EU sanctions against Russia do not target Russia's food or fertilizer exports, sanctions-related restrictions on its banking, transit, and insurance sectors have hindered Russian agricultural trade.¹²⁵ As a result, already tight global supplies were further squeezed, causing key agricultural commodity prices to spike in the months following the invasion.

Russia and Ukraine are important suppliers of agricultural commodities. During marketing year 2018/19–2020/21, Russia and Ukraine accounted for 28 percent of global wheat exports (by volume), 18 percent of corn, 76 percent of sunflower oil, 78 percent of sunflower meal, and 31 percent of barley.¹²⁶ For wheat, Russia's and Ukraine's largest export destination markets are Egypt and Turkey (37 percent by volume).¹²⁷ The war-related disruptions to the wheat supply chain led Egypt to diversify its foreign suppliers.¹²⁸ Turkey's wheat imports fell slightly short of projections but nonetheless increased year over

¹²² AMIS, *AMIS Market Monitor, Issue 104*, December 2022, 16. Hebebrand and Glauber, "The Russia-Ukraine War after a Year," March 9, 2023.

¹²³ Estimated using importing country data. HS subheading 2814, 3102, 3104, 3105. HS subheading 2814 "Ammonia" decreased by \$518 million (31 percent) driven by a sharp decline in volumes despite average unit values more than doubling; 3102 "Nitrogenous fertilizers" increased by \$1.9 billion (41 percent) driven by higher prices despite lower volumes; 3104 "Potassic fertilizers" increased by \$869 million (41 percent) driven by higher average unit values offsetting declines in quantity; 3105 "Fertilizers containing nitrogen, phosphorus, or potassium" increased by \$3.4 million (75 percent) driven by higher unit values and a slight increase in volume. S&P Global, GTAS database, accessed June 1, 2023.

¹²⁴ In 2021, food prices increased as demand rebounded from the impact of the pandemic. De La Hamaide, "World Food Prices Hit Record High in 2022," January 6, 2023.

¹²⁵ U.S. and EU sanctions exclude agriculture and fertilizer commodities in order to minimize disruptions to global food security. Lack of clarity and uncertainty around the exemption caused some buyers and their banks and insurers to self-sanction and avoid buying agriculture and fertilizer products from Russia. CRS, *The Economic Impact of Russia Sanctions*, December 13, 2022. European Council, "EU Sanctions against Russia Explained," April 14, 2023. Maynes and Kakissis, "The Ukraine Grain Deal Is Extended 2 Months," May 17, 2023. Bounds and Fleming, "Member States Press EU to Amend Sanctions," December 7, 2022.

¹²⁶ During this period, Russia accounted for approximately 19 percent of global wheat exports and Ukraine accounted for 9 percent (by volume). For corn exports, Ukraine accounted for 15 percent and Russia, 2 percent. For sunflower oil exports, Ukraine accounted for 50 percent and Russia, 27 percent. For sunflower meal exports, Ukraine accounted for 57 percent and Russia accounted for 21 percent. For barley exports, Russia accounted for 17 percent and Ukraine, 14 percent. USDA, FAS, PSD, accessed May 18, 2023.

¹²⁷ Average for 2018–20. HS subheading 1001. S&P Global, GTAS database, accessed October 4, 2023. Glauben et al., "The War in Ukraine," May 2022, 157.

¹²⁸ Egypt increased wheat imports from the EU, the United States, and Australia. USDA, FAS, *Grain and Feed Annual: Egypt*, April 4, 2023, 8. USDA, FAS, *Decline in Ukraine Wheat Imports Drives Egypt*, June 22, 2022, 3.

year, with Russia and Ukraine supplying the majority.¹²⁹ For corn, China and the EU were Russia's and Ukraine's largest export markets (56 percent by volume) in 2021.¹³⁰ During marketing year 2021/22, lower Chinese corn imports from Ukraine were offset by higher imports from Brazil.¹³¹ Ukraine maintained its position as the largest corn supplier to the EU, supplying approximately 50 percent of the EU's corn import volumes in marketing year 2021/22, with Brazil supplying an additional 25 percent.¹³²

For sunflower oil, Russia's and Ukraine's two largest markets were India and China (jointly 38 percent by volume) in 2021.¹³³ Despite lower sunflower seed oil imports from Ukraine, India's 2021/22 imports remained relatively stable, because importers sourced sunflower seed oil from nontraditional markets, such as Argentina.¹³⁴ China saw a significant decrease in sunflower seed oil imports during marketing year 2021/22, which was partly mitigated by a decrease in demand from the food service industry due to ongoing COVID-19-related restrictions.¹³⁵ Ukrainian exports of sunflower oil decreased by approximately \$824 million (16 percent) in 2022.¹³⁶ For sunflower meal, China and Turkey are Ukraine's and Russia's largest export markets (jointly 46 percent by volume).¹³⁷ Ukrainian exports of sunflower meal decreased by \$466 million (38 percent) in 2022.¹³⁸ For barley, the Middle East/North Africa region (42 percent)—particularly Saudi Arabia—and China (31 percent) are Russia's and Ukraine's largest export markets.¹³⁹ During 2021/22, Saudi Arabia's lower barley imports were driven by decreased shipments from Russia and the EU, though increased shipments from Australia helped to somewhat offset this decline.¹⁴⁰ Ukrainian exports of barley decreased by \$823 million (65 percent) in 2022.¹⁴¹

On a global level, high wheat prices caused consumers to shift to other grains, such as rice, and the feed industry to shift to corn.¹⁴² Sunflower oil buyers substituted other vegetable oils, such as rapeseed,

¹²⁹ HS subheading 1001. S&P Global, GTAS database, accessed May 24, 2023. USDA, FAS, *Grain and Feed Annual: Turkey*, April 6, 2023, 6. USDA, FAS, *Grain and Feed Update: Turkey*, July 28, 2022, 3.

¹³⁰ HS subheading 1005. S&P Global, GTAS database, accessed October 4, 2023. Glauben et al., "The War in Ukraine," May 2022, 157.

¹³¹ USDA, FAS, *Grain and Feed Update: China*, January 25, 2023, 5.

¹³² USDA, FAS, *EU Grain and Feed Fall Update*, December 1, 2022, 11–12.

¹³³ HS subheading 1512.11 and 1512.19. S&P Global, GTAS database, accessed May 23, 2023.

¹³⁴ USDA, FAS, *Oilseeds and Products Update: India*, December 22, 2022, 15.

¹³⁵ USDA, FAS, *Oilseeds and Products Update: China*, September 8, 2022, 8, 12–13.

¹³⁶ Conversely, global imports of Russian sunflower oil increased by \$488 million (20 percent) in 2022. HS subheading 1512.11 and 1512.19. S&P Global, GTAS database, accessed October 4, 2023.

¹³⁷ HS subheading 2306.30. S&P Global, GTAS database, accessed November 15, 2023.

¹³⁸ Global imports of Russian sunflower meal increased by \$66 million (14 percent) in 2022. HS subheading 2306.30. S&P Global, GTAS database, accessed May 23, 2023.

¹³⁹ The Middle East/North Africa region includes Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates, and Yemen. USTR, "Middle East/North Africa (MENA)," accessed August 2, 2023. HS subheading 1003. S&P Global, GTAS database, accessed June 20, 2023.

¹⁴⁰ USDA, FAS, *Barley Trade Quarterly: Saudi Arabia*, November 3, 2022, 2–3.

¹⁴¹ Global imports of Russian barley decreased by \$451 million (57 percent) in 2022. HS subheading 1003. S&P Global, GTAS database, accessed June 20, 2023.

¹⁴² Thukral and Christina, "As Wheat Prices Soar, the World's Consumers Vote with Their Feet," August 3, 2022.

linseed, groundnut, and palm, leading to tight supplies and higher prices for other vegetable oils, which peaked in April 2022.¹⁴³

In July 2022, the United Nations helped broker the Black Sea Grain Initiative between Ukraine, Turkey, and Russia, which allowed Black Sea shipments of Ukrainian grain exports to resume.¹⁴⁴ Since the Black Sea Grain Initiative, Ukrainian grain exports restarted and agricultural commodity prices have eased to pre-war levels, though remain historically high.¹⁴⁵

Other Trade Impacts

In addition to the sectors and products discussed above, trade data for Russia and Ukraine indicated large trade shifts among the following products.

Iron and Steel

The war has significantly impacted Ukraine's iron and steel industry. Numerous factors related to the war, as well as challenging global market conditions, caused Ukrainian production to decrease significantly.¹⁴⁶ Furthermore, steel exports—which are generally shipped via the Black Sea—have been blocked by Russian forces, compelling producers to redirect logistics routes and supply chains, increasing the delivered cost.¹⁴⁷ Agricultural and fertilizer shipments have restarted as a result of the Black Sea Grain Initiative (see above), but the agreement does not apply to Ukraine's iron and steel industries.¹⁴⁸ The iron and steel categories below are among those that experienced the largest trade impacts in 2022.

- Iron ore—Ukraine and Russia are major exporters of iron ore, with China and the EU being their largest foreign markets.¹⁴⁹ To make up for the decrease in supply from Ukraine, China sourced more iron ore from Australia.¹⁵⁰ Meanwhile, increased imports from India and Liberia into the EU only made a small dent in the shortfall from Russia and Ukraine.¹⁵¹ In 2022, Ukrainian

¹⁴³ The Government of the Netherlands, Ministry of Foreign Affairs, "The Impact of the Ukraine War on. . . Vegetable Oils?," October 4, 2022. USDA, FAS, *Oilseeds: World Markets and Trade*, May 2022, 17.

¹⁴⁴ Turkey controls the maritime routes from the Black Sea. The initial agreement was valid for 120 days but has been renewed multiple times, extending the agreement through to July 18, 2023. On July 17, 2023, Russia announced that it was terminating participation in the Black Sea Grain Initiative. USAID, *The Black Sea Grain Initiative*, November 10, 2022; IFPRI Blog, "Russia terminates the Black Sea Grain Initiative," July 20, 2023.

¹⁴⁵ Janzen and Zulauf, "The Russia-Ukraine War and Changes in Ukraine Corn and Wheat Supply," February 24, 2023, 1. USDA, FAS, *Grain: World Markets and Trade*, April 2023, 4, 12.

¹⁴⁶ Factors impacting production include destroyed factories, power outages, high energy prices, high raw material prices, low steel demand, and low steel prices. Moors, "Metals and the Invasion: Ukrainian Metal-Makers' Woes Grow," February 22, 2023.

¹⁴⁷ Delivered cost is the complete cost of sourcing, producing, and delivering products to consumers. Moors, "Metals and the Invasion: Ukrainian Metal-Makers' Woes Grow," February 22, 2023. Beaubien, "Russia's War in Ukraine Pushes Ukrainian Steel Production," August 12, 2022; Kosanksy and Schaefer, "A Fresh Approach to Improving Total Delivered Cost," March 11, 2014.

¹⁴⁸ Beaubien, "Russia's War in Ukraine Pushes Ukrainian Steel Production," August 12, 2022.

¹⁴⁹ In 2020, Ukraine and Russia were the sixth- and ninth-largest exporters, respectively. OECD, *Steel Market Developments—Q2 2022*, 2022, 9. HS subheading 2601. S&P Global, GTAS database, accessed June 1, 2023.

Beaubien, "Russia's War in Ukraine Pushes Ukrainian Steel Production," August 12, 2022.

¹⁵⁰ HS subheading 2601. S&P Global, GTAS database, accessed June 26, 2023.

¹⁵¹ HS subheading 2601. S&P Global, GTAS database, accessed June 26, 2023.

exports of iron ore decreased by \$4 billion (58 percent) and global imports of Russian iron ore decreased by \$2.4 billion (58 percent).¹⁵²

- Pig iron¹⁵³—American and European steel plants are the main importers of Russian and Ukrainian pig iron.¹⁵⁴ The United States increased imports of pig iron from Brazil and other suppliers, which partially offset the gap left by Russia and Ukraine. In the EU, importers increased purchases of Russian pig iron—because Russian pig iron is exempt from EU sanctions—which made up for the decrease in shipments from Ukraine.¹⁵⁵ Ukrainian exports of pig iron decreased by \$1 billion (61 percent) in 2022.¹⁵⁶
- Semifinished steel products—European rerolling plants depend on imports of semifinished products from Ukraine. In 2022, to make up for the decrease in Ukrainian shipments, Italy—the largest EU destination for Ukrainian semifinished products—sourced more product from Asia, which only partially offset the gap left by Ukraine. Turkey, the second-largest Ukrainian foreign market, increased imports from Russia. Ukrainian shipments of semifinished products declined by \$2.9 billion (71 percent).¹⁵⁷
- Finished steel—The EU, Russia’s largest market for finished steel products, banned the import of Russian finished steel products as part of sanctions imposed in March 2022.¹⁵⁸ As a result, steel quotas previously assigned to Russia were redistributed to other countries (including Turkey), influencing global trade flows.¹⁵⁹ Global imports of Russian finished steel mill products—particularly flat-rolled nonalloy steel products—decreased significantly in 2022.¹⁶⁰

Palladium

Palladium is a platinum group metal that is primarily used in automotive catalytic converters to decrease harmful emissions. Russia is the largest exporter of palladium (by value), accounting for approximately

¹⁵² Russian value estimated using importing country data. HS subheading 2601. S&P Global, GTAS database, accessed June 1, 2023.

¹⁵³ Pig iron is an input used in steelmaking that is derived from iron ore. IIMA, “Pig Iron,” accessed July 7, 2023.

¹⁵⁴ HS subheading 7201. S&P Global, GTAS database, accessed June 1, 2023.

¹⁵⁵ Grigorenko, “How Sanctions Affected the Russian Steel Market,” April 24, 2023. HS subheading 7201. S&P Global, GTAS database, accessed June 26, 2023.

¹⁵⁶ In 2022, global imports of Russian pig iron decreased by \$467 million (20 percent). HS subheading 7201. S&P Global, GTAS database, accessed June 1, 2023.

¹⁵⁷ The value of global imports of Russian semifinished steel products increased by \$74 million (0.8 percent) in 2022. HS subheading 7207. S&P Global, GTAS database, accessed June 1, 2023, and December 5, 2023.

¹⁵⁸ The EU also banned steel imports from Belarus. Holman, “New EU Sanctions to Include Russian Semi-Finished Steel Imports,” October 6, 2022. European Commission, “EU Adjusts Steel Safeguard Quotas Following Import Bans,” March 16, 2022.

¹⁵⁹ Instead, Russia increased pig iron exports to the EU (see pig iron discussion), as Russian pig iron exports are exempt from EU sanctions. European Commission, “Commission Implementing Regulation (EU) 2022/434,” March 16, 2022, 183.

¹⁶⁰ Specifically, global imports from Russia of HS subheading 7208 (Flat-Rolled Iron or Nonalloy Steel Products, 600 mm (23.6 in.) or More Wide, Hot-Rolled, Not Clad, Plated, or Coated) and 7210 (Flat-Rolled Iron or Nonalloy Steel Products, 600 mm (23.6 in.) or More Wide, Clad, Plated Or Coated) decreased by \$2.9 billion (71 percent) and \$398 million (47 percent), respectively). Similarly, Ukrainian export values of HS subheading 7208 and 7210 decreased by \$2.7 billion (73 percent) and \$313 million (74 percent), respectively. HS subheading 7208 and 7210. S&P Global, GTAS database, accessed October 4, 2023, and December 5, 2023.

two-fifths of the global palladium supply.¹⁶¹ The largest export markets for Russian palladium are the United States, the UK, and Japan.¹⁶² U.S. import volumes of palladium from Russia decreased only slightly in 2022, reflecting the fact that Russian trade flows were largely uninterrupted as a result of limited alternative suppliers.¹⁶³ UK imports of the Russian precious metal—which was subject to a 35 percent tariff—declined 82 percent in 2022.¹⁶⁴ According to importing country data, global imports of Russian palladium decreased by \$4 billion (40 percent) in 2022.¹⁶⁵

Precious Metals and Gemstones

Russia is a major exporter of diamonds.¹⁶⁶ In 2021, the largest buyers of Russian diamonds were Belgium (58 percent by volume)—where Antwerp is a major European diamond cutting and trading hub—followed by the United Arab Emirates (27 percent) and India (11 percent).¹⁶⁷ By the end of 2022, no EU sanctions were in place on Russian diamonds, despite repeated appeals from Ukraine and some EU countries.¹⁶⁸ Nonetheless, Russian exports of diamonds decreased in 2022 because of increasing public pressure and consumer awareness about Russia’s invasion of Ukraine.¹⁶⁹ In 2022, Belgian imports of Russian diamonds decreased by 47 percent (by volume) and Indian imports increased by 42 percent.¹⁷⁰ According to importing country data, global imports of Russian diamonds decreased by \$1.3 billion (22 percent) in 2022.¹⁷¹

¹⁶¹ After Russia, the largest exporters of palladium are South Africa, the United States, the UK, and the EU (specifically, Italy, Belgium, and Germany). HS subheading 7110.21 and 7110.29. S&P Global, GTAS database, accessed May 30, 2023. DeCarlo and Goodman, “Russia, Palladium, and Semiconductors,” May 2022, 1.

¹⁶² DeCarlo and Goodman, “Russia, Palladium, and Semiconductors,” May 2022, 2.

¹⁶³ HS subheading 7110.21 and 7110.29. S&P Global, GTAS database, accessed May 30, 2023. Keen and Duquitan, “Flow of Russian Metal into U.S. Rises,” June 3, 2022. In December 2022, the United States sanctioned Vladimir Potanin, the largest shareholder of MMC Norilsk Nickel PJSC (one of the world’s largest nickel, palladium, and copper producers) but avoided sanctioning the company in an effort to maintain stability in the metals market. Bloomberg, “The U.S. Just Sanctioned Russia’s Richest Tycoon,” December 15, 2022.

¹⁶⁴ The UK announced the tariff on May 9, 2022. In addition, newly refined Russian palladium was blocked from being traded in London in April 2022. Lahiri, “How Will UK’s 35% Tariffs Affect Platinum and Palladium Prices?,” May 13, 2022. Metal Miner, “How the UK’s 35% Duty,” May 19, 2022. Hobson, “London Market Blocks Refined Russian Platinum and Palladium,” April 8, 2022.

¹⁶⁵ HS subheading 7110.21 and 7110.29. S&P Global, GTAS database, accessed May 31, 2023.

¹⁶⁶ Paton, “How More Sanctions on Russian Diamonds . . .,” August 28, 2023.

¹⁶⁷ HS subheading 7102. S&P Global, GTAS database, May 31, 2023.

¹⁶⁸ In 2022, the United States imposed multiple measures against Russian diamonds, including an import ban, levying tariffs, and sanctioning the state-owned diamond mining company, Alrosa, and its CEO, Sergei S. Ivanov. In April 2022, the UK announced a 35 percent tariff on the importation of diamonds from Russia and Belarus. White House, “Executive Order 14068,” March 11, 2022; White House, “Proclamation 10420 of June 27, 2022,” June 30, 2022; U.S. Treasury, “U.S. Treasury Announces Unprecedented & Expansive Sanctions Against Russia,” February 24, 2022; Ord, “Diamonds Slapped with Tariff as UK and Russia Hostility Continues,” April 29, 2022. Wheaton, “Zelenskyy to Belgium: Value Peace Over Russian Diamonds,” March 31, 2022; Moens, “Russian Diamonds Lose Their Sparkle in Europe,” January 27, 2023.

¹⁶⁹ Moens, “Love Is Blind for Europeans Buying Russian Diamonds,” March 2, 2023.

¹⁷⁰ S&P Global, GTAS database, accessed May 31, 2023.

¹⁷¹ HS subheading 7102. S&P Global, GTAS database, October 4, 2023.

Russia is one of the world's largest producers of gold.¹⁷² Before Russia's invasion of Ukraine, the vast majority of Russian gold was exported to the UK, where the world's biggest bullion trade and storage center is located.¹⁷³ In June 2022, the G7 nations announced sanctions on Russian gold as part of further efforts to limit Russia's ability to fund its invasion of Ukraine.¹⁷⁴ This measure, however, was largely symbolic because gold exports to the West had largely stopped soon after Russia invaded Ukraine.¹⁷⁵ Since the war began, some Russian exports have been redirected to Asia, where most countries have not imposed sanctions on Russia exports.¹⁷⁶ According to importing country data, global imports of Russian gold decreased by \$4 billion (21 percent) in 2022.¹⁷⁷

¹⁷² China and Australia are also important producers. Reuters, "Western Ban on Russian Gold Imports Is Largely Symbolic," June 27, 2022.

¹⁷³ HS subheading 7108. S&P Global, GTAS database, May 31, 2023. Reuters, "Western Ban on Russian Gold Imports Is Largely Symbolic," June 27, 2022.

¹⁷⁴ Cohen, "What the Ban on Russia's Gold Imports Means," June 27, 2022; Herszenhorn, "All That Glitters Won't Be Sold," June 26, 2022.

¹⁷⁵ Cohen, "What the Ban on Russia's Gold Imports Means," June 27, 2022; Reuters, "Western Ban on Russian Gold Imports Is Largely Symbolic," June 27, 2022.

¹⁷⁶ According to importing country data, Hong Kong, Turkey, Thailand, and China saw the biggest increases in imports of Russian gold (by value in absolute terms) in 2022. Switzerland and Germany also increased imports; however, these trade flows largely occurred in the beginning of the year. HS subheading 7108. S&P Global, S&P Global, GTAS database, accessed May 31, 2023. Reuters, "Western Ban on Russian Gold Imports Is Largely Symbolic," June 27, 2022.

¹⁷⁷ HS subheading 7108. S&P Global, GTAS database, May 31, 2023.

Chapter 2

Administration of U.S. Trade Laws and Regulations

This chapter surveys activities related to the administration of U.S. trade laws during 2022, covering import relief laws, laws against unfair trade practices, and national security investigations. In addition, this chapter covers miscellaneous tariff bill (MTB) reports under the American Manufacturing Competitiveness Act of 2016, trade adjustment assistance (TAA) programs, and tariff preference programs. Tariff preference programs encompass the U.S. Generalized System of Preferences, the Nepal Trade Preferences Act, the African Growth and Opportunity Act, and the Caribbean Basin Economic Recovery Act, including the initiatives intended to aid Haiti.

Import Relief Laws

Safeguard Investigations

This section covers safeguard investigations conducted by the Commission during 2022, including under the global safeguard provisions in sections 201–204 of the Trade Act of 1974 (Trade Act),¹⁷⁸ and statutes implementing safeguard provisions in various bilateral free trade agreements to which the United States is a party.¹⁷⁹ No new petitions were filed and no new investigations were instituted in 2022. Two global safeguard actions on solar cells and modules and on large residential washers, implemented before 2022 were in place throughout the year. Two monitoring investigations on imports of two perishable products—fresh or chilled bell peppers, and fresh or chilled strawberries—were instituted in 2020, allowing a domestic industry to file a safeguard petition that includes a request for provisional relief pending completion of a full investigation. Both expired after no petition was filed during the two-year monitoring period that ended in December 2022.

Background

The safeguard provisions in sections 201–204 of the Trade Act set out a procedure under which the President may grant temporary relief to a domestic industry seriously injured by increased imports. The process begins at the Commission with the filing of a petition on behalf of a domestic industry, a request from the President or the U.S. Trade Representative (Trade Representative), or a resolution from the U.S. House of Representatives Committee on Ways and Means or the U.S. Senate Committee on Finance.¹⁸⁰ Following receipt of a properly filed petition or a request or resolution, the Commission makes an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic

¹⁷⁸ Title II of Trade Act of 1974, Pub. L. No. 93-618, §§ 201–203, 88 Stat. 1978, 2011–2018 (1975) (Trade Act) (codified at 19 U.S.C. §§ 2251–2254).

¹⁷⁹ For a list of statutory authorities for bilateral safeguard actions, see 19 CFR § 206.31.

¹⁸⁰ 19 U.S.C. § 2252(b)(1)(A).

industry producing an article like or directly competitive with the imported article.¹⁸¹ If the Commission makes an affirmative determination, it recommends to the President the action that would address the serious injury or threat of serious injury to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition. The Commission is authorized to recommend an increase in or imposition of a duty on the imported article, a tariff-rate quota on the article, a modification or imposition of any quantitative restriction on the importation of the article, one or more appropriate adjustment measures, including adjustment assistance, and any combination of the above actions.¹⁸² The President makes the final decision on whether to take an action and, if so, the form and amount, subject to certain statutory limitations. The action may not exceed an initial period of four years and an overall period—with one or more extensions—of eight years.¹⁸³

The Commission must monitor industry developments during the period the action is in effect. It also must submit a report on its monitoring to the President and the Congress at the midpoint of the action, if the action exceeds three years.¹⁸⁴ Before the action expires, the Commission, upon the request of the President or upon petition timely filed on behalf of the industry concerned, must investigate to determine whether the action continues to be necessary to prevent or remedy serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.¹⁸⁵

After the action taken has expired, the Commission must provide a report to the President and the Congress on the effectiveness of the action.¹⁸⁶ The statute also provides two sets of circumstances under which the President may provide provisional relief with respect to a perishable agricultural product or when critical circumstances are found to exist.¹⁸⁷

Developments in 2022

During 2022, the United States had two global safeguard measures in effect: one on solar cells and modules and one on large residential washers.¹⁸⁸ President Donald J. Trump imposed both measures in February 2018, following receipt of affirmative serious injury determinations from the Commission. The measure on imports of large residential washers was imposed for an initial period of three years and one day, and it was initially scheduled to expire in February 2021. The measure on imports of solar cells and modules was imposed for an initial period of four years and was initially scheduled to expire in February 2022.

¹⁸¹ 19 U.S.C. § 2252(b)(1)(A).

¹⁸² 19 U.S.C. § 2252(e)(2).

¹⁸³ 19 U.S.C. § 2253(e).

¹⁸⁴ 19 U.S.C. § 2254(a).

¹⁸⁵ 19 U.S.C. § 2254(c)(1).

¹⁸⁶ 19 U.S.C. § 2254(d).

¹⁸⁷ 19 U.S.C. § 2252(d).

¹⁸⁸ Proclamation No. 9693, 83 Fed. Reg. 3541 (January 25, 2018); see Proclamation No. 9693, 83 Fed. Reg. 3553 (January 25, 2018).

Large Residential Washers

On January 14, 2021, President Trump issued Proclamation 10133, extending the measure on large residential washers for two additional years, effective February 8, 2021.¹⁸⁹ The President took the action following receipt, on December 8, 2020, of a report and affirmative determination from the Commission that the relief provided to the domestic industry in 2018 continues to be necessary to prevent or remedy serious injury to the industry. The report also concluded that the domestic industry is making a positive adjustment to import competition. The Commission instituted its investigation on August 3, 2020, under section 204(c) of the Trade Act, following receipt of a petition from Whirlpool Corporation (Commission Investigation No. TA-201-076 (Extension), *Large Residential Washers*).¹⁹⁰

In 2022, the domestic industry did not request a further extension of the washers measure.¹⁹¹ President Joseph R. Biden did not request a determination from the Commission concerning whether the action continues to be necessary to prevent or remedy serious injury and whether there is evidence the industry is making a positive adjustment. Accordingly, the measure was allowed to expire on February 7, 2023.¹⁹²

Crystalline Silicon Photovoltaic Cells, Whether or Not Partially or Fully Assembled into Other Products

The Commission instituted its initial investigation in this matter on May 17, 2017, following receipt of a petition properly filed by Suniva, Inc., and subsequently joined by Solarworld as a co-petitioner, domestic producers of an article like or directly competitive article with the imported article.¹⁹³ Following an investigation and public hearings, the Commission made an affirmative injury determination and recommended to the President a series of actions to address the injury.¹⁹⁴ Following receipt of the Commission's report, the President, on January 23, 2018, issued Proclamation 9693, imposing a safeguard measure for a period of four years. The measure included both a tariff-rate quota (TRQ) on imports of certain crystalline silicon photovoltaic (CSPV) cells, not partially or fully assembled into other products, and an increase in duties (safeguard tariff) on imports of CSPV cells exceeding the TRQ and all imports of other CSPV products, including modules. For a description of the safeguard

¹⁸⁹ Proclamation No. 10133, 86 Fed. Reg. 6541 (January 21, 2021). The proclamation extended the measure for two additional years, subject to certain modifications.

¹⁹⁰ USITC, *Large Residential Washers*, December 2020.

¹⁹¹ A request of the president or petition on behalf of the industry concerned for the Commission to investigate whether a global safeguard action continues to be necessary must be submitted between six and nine months before a measure's expiration. 19 U.S.C. § 2254(c)(1).

¹⁹² Upon termination, and in accordance with section 204(d)(1) of the Trade Act, the Commission commenced an investigation to evaluate the effectiveness of the action in facilitating positive adjustment by the domestic industry to import competition, with a public hearing scheduled for June 1, 2023, and a report to be submitted to the President and the Congress in August 2023. USITC, "Large Residential Washers," February 23, 2023.

¹⁹³ *Crystalline Silicon Photovoltaic Cells, (Whether or not Partially or Fully Assembled into Other Products)*, Investigation No. TA-201-75, Pub. 4739, November 2017.

¹⁹⁴ *Crystalline Silicon Photovoltaic Cells, (Whether or not Partially or Fully Assembled into Other Products)*, Investigation No. TA-201-75, Pub. 4739, November 2017.

measure imposed in 2018, see Proclamation 9693¹⁹⁵ and for modifications subsequently made to that measure, see Proclamation 10339.¹⁹⁶

On February 4, 2022, President Biden issued Proclamation 10339, extending the existing initial remedy for four additional years, but with certain modifications.¹⁹⁷ The President extended the measure, following receipt of a Commission report on December 8, 2021, in which the Commission determined that the relief provided to the domestic CSPV industry in 2018 continues to be necessary to prevent or remedy serious injury to the industry, and that the domestic industry is making a positive adjustment to import competition.¹⁹⁸ The Commission recommended that the relief be extended for four additional years.¹⁹⁹

Monitoring of Imports of Fresh or Chilled Strawberries, and Imports of Fresh or Chilled Bell Peppers

In December 2020, at the request of the Trade Representative, the Commission instituted two monitoring investigations under section 332(g) of the Tariff Act of 1930 with respect to imports of fresh or chilled strawberries and imports of fresh or chilled bell peppers, in accordance with the perishable agricultural provision in section 202(d)(1) of the Trade Act.²⁰⁰ Under that provision, the monitoring was not to exceed two years. Once the Commission had been monitoring imports of the product for at least 90 days, the domestic industry concerned may file a petition for import relief under section 202(b) of the Trade Act and in that petition seek provisional import relief, pending completion of a full Commission investigation. In such a case, the Commission would have 21 days from receipt of a petition containing such a request to make a preliminary determination and, if affirmative, recommend a remedy to the President. The President would have seven days from receipt of an affirmative Commission determination to proclaim any provisional relief.²⁰¹

As of the end of the two-year monitoring period in early December 2022, no domestic industry had filed a petition with the Commission under section 202(b) of the Trade Act with respect to any of the covered perishable agricultural products. Accordingly, the Commission ceased monitoring.

¹⁹⁵ 83 Fed. Reg. 3541 (January 25, 2018).

¹⁹⁶ 87 Fed. Reg. 7357 (February 9, 2022).

¹⁹⁷ Proclamation No. 10339, 87 Fed. Reg. 7357 (February 9, 2022).

¹⁹⁸ The petitions were filed by Auxin Solar, Inc., and Suniva, Inc. on August 2, 2021, and by Hanwha Q CELLS USA, Inc., LG Electronics USA, Inc., and Mission Solar Energy, on August 4, 2021.

¹⁹⁹ USITC, *Crystalline Silicon Photovoltaic Cells*, December 2021.

²⁰⁰ USITC, "Monitoring of Fresh or Chilled Strawberries," December 7, 2020.

²⁰¹ USITC, "USITC to Monitor U.S. Imports," December 2, 2020. See also section 202(d)(1)(C) and (G) of the Trade Act, 19 U.S.C. § 2252(d)(1)(C) and (G).

Laws against Unfair Trade Practices

Section 301 Investigations

Background

Section 301 of the Trade Act is designed to address unfair foreign practices affecting U.S. commerce.²⁰² Section 301 may be used to enforce U.S. rights under bilateral and multilateral trade agreements or to respond to unjustifiable, unreasonable, or discriminatory foreign government practices that burden or restrict U.S. commerce. Interested persons may petition the Trade Representative to investigate a foreign government act, policy, or practice and take appropriate action. The Trade Representative may also self-initiate an investigation.²⁰³

In each investigation under the statute, the Trade Representative is required to seek consultations with the foreign government involved.²⁰⁴ If the matter is not resolved, the statute requires the Trade Representative to determine whether the practices in question fulfill any of three conditions: (1) they deny U.S. rights under a trade agreement; (2) they are unjustifiable, and burden or restrict U.S. commerce; or (3) they are unreasonable or discriminatory, and burden or restrict U.S. commerce.²⁰⁵ If the practices fulfill either of the first two conditions, the Trade Representative generally must take action.²⁰⁶ If the practices are unreasonable or discriminatory and burden or restrict U.S. commerce, the Trade Representative determines whether action is appropriate and, if so, what action to take.²⁰⁷ Section 301 authorizes a wide range of actions, including the suspension of trade agreement concessions, the imposition of duties or other restrictions on the imports of goods or services, and entry into an agreement to eliminate the offending practice or provide the United States with compensatory benefits.²⁰⁸ If a foreign country fails to comply with such an agreement, or to implement a World Trade Organization (WTO) recommendation, the Trade Representative must determine what further action should be taken under section 301.²⁰⁹

Developments in 2022

Active section 301 investigations in 2022 involved technology transfer, intellectual property, and innovation practices in China, as well as timber-related activities in Vietnam. Over the course of 2022, the Trade Representative continued to monitor developments in section 301 investigations involving taxes on digital services proposed or adopted in France and other jurisdictions, subsidies on large civil

²⁰² Section 301 refers to sections 301–310 of Title III of the Trade Act, codified at 19 U.S.C. §§ 2411–2420.

²⁰³ USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 33–34.

²⁰⁴ 19 U.S.C. § 2413.

²⁰⁵ 19 U.S.C. § 2414(a)(1).

²⁰⁶ The Trade Representative is not required to take action in any case in which the WTO Dispute Settlement Body has adopted a report or a ruling has been issued under the formal dispute proceeding under any other trade agreement that U.S. rights are not being denied or that the act, policy, or practice does not violate U.S. rights or deny benefits under any trade agreement. 19 U.S.C. § 2411(a)(2).

²⁰⁷ 19 U.S.C. § 2411(b).

²⁰⁸ 19 U.S.C. § 2411(c).

²⁰⁹ 19 U.S.C. § 2416(b).

aircraft by the European Union (EU) and certain current or former member states, and currency valuation in Vietnam.

China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

In 2018, the Office of the U.S. Trade Representative (USTR) published the findings of its investigation on whether China's acts, policies, and practices related to technology transfer, intellectual property, and innovation were unreasonable or discriminatory and burdened or restricted U.S. commerce.²¹⁰ The Trade Representative found the following four categories of acts, policies and practices of China to be unreasonable or discriminatory and to constitute a burden or restriction on U.S. commerce and, thus, actionable under the Trade Act:

- China uses foreign ownership restrictions and administrative processes to require or pressure technology transfer from U.S. companies.
- China's regime of technology regulations forces U.S. companies seeking to license technologies to Chinese entities to do so on nonmarket-based terms that favor Chinese recipients.
- China directs and unfairly facilitates the systematic investment in, and acquisition of, U.S. companies and assets by Chinese companies to obtain cutting-edge technologies and intellectual property and generate the transfer of technology to Chinese companies.
- China conducts and supports unauthorized intrusions into, and theft from, the computer networks of U.S. companies to access sensitive commercial information and trade secrets.²¹¹

To address the first, third, and fourth categories of actions, and at the direction of the President, the Trade Representative imposed additional duties on products of China through a series of lists, each covering a distinct set of products.²¹²

- List 1 (June 2018): additional 25 percent duty on products with an approximate annual trade value of \$34 billion.
- List 2 (August 2018): additional 25 percent duty on products with an approximate annual trade value of \$16 billion.
- List 3 (September 2018): additional 10 percent duty (subsequently increased to 25 percent in May 2019) on products with an approximate annual trade value of \$200 billion.
- List 4 (August 2019): additional 10 percent duty (subsequently increased to 15 percent) on products with annual trade valued at \$300 billion. List 4A was to be subject to additional duties on September 1, 2019, and List 4B was to be subject to duties on December 15, 2019. Following the announcement on December 13, 2019, of a Phase One Agreement requiring China's purchase of certain U.S. goods and services, as well as structural reforms and other changes to its economic and trade regime related to intellectual property, technology transfer, and other matters,²¹³ the Trade Representative suspended indefinitely the imposition of additional tariffs

²¹⁰ USTR, *Findings of the Investigation into China's Acts*, March 22, 2018.

²¹¹ 83 Fed. Reg. 14906 (April 6, 2018).

²¹² For the second category of actions, the Trade Representative initiated a WTO dispute in 2018, but the WTO proceedings were suspended at the request of the Trade Representative in June 2019. WTO, "DS542: China," July 7, 2021, 542; USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 35.

²¹³ USTR, "Fact Sheet: Agreement between the United States of America and China," December 13, 2019.

on products covered by List 4B and reduced the additional rate of duties on products covered by List 4A from 15 percent to 7.5 percent, effective February 14, 2020.²¹⁴

USTR subsequently implemented a process for U.S. importers to request that products included on the various lists be excluded from additional duties. According to USTR, it approved 2,475 exclusion requests, initially set to expire between December 2019 and October 2020, with about 549 such requests extended to December 2020. In December 2020, the Trade Representative determined to further extend product exclusions, or otherwise modify USTR's determinations to remove section 301 duties on certain additional medical-care products to address the COVID-19 pandemic.²¹⁵ Following public comment, the Trade Representative extended the exclusions for certain medical-care products for 99 COVID-19-related exclusions through November 30, 2021 (extended further for 81 of the 99 exclusions through May 31, 2022, and then until February 28, 2023).²¹⁶

As part of seeking public comment for the exclusion of medical-care products in 2021, USTR also sought public comment on the possible reinstatement of the 549 previously extended exclusions. On March 28, 2022, the Trade Representative reinstated 352 of the 549 previously expired exclusions initially through December 31, 2022, and subsequently extended these exclusions through September 30, 2023.²¹⁷

In May 2022, USTR notified representatives of domestic industries that benefit from the tariff actions of the possible termination of those actions and of the opportunity for the representatives to request continuation.²¹⁸ In September 2022, USTR announced that (1) it had received requests from representatives of domestic industries that benefit from the tariff actions to continue the actions; (2) accordingly, the tariff actions had not terminated; and (3) USTR would conduct a statutory review of the tariff actions.²¹⁹

On November 15, 2022, USTR requested public comments covering issues such as the effectiveness of the actions in achieving the objectives of the investigation, other actions that could be taken, and the effects of the actions on the U.S. economy, including consumers.²²⁰

Digital Services Taxes

On July 24, 2019, the president of France signed into law a Digital Services Tax (DST) that would place a 3 percent levy on revenues that some companies generate from providing certain digital services to, or aimed at, persons in France. The DST applied retroactively, beginning January 1, 2019, to companies that met certain global and French revenue thresholds for the covered services. On July 10, 2019, the Trade

²¹⁴ USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 36.

²¹⁵ 85 Fed. Reg. 85831 (December 29, 2020); USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 36–37.

²¹⁶ 86 Fed. Reg. 63438 (November 16, 2021); see also Sandler, Travis & Rosenberg, P.A., “Section 301 Tariffs on China,” accessed April 1, 2022; 87 Fed. Reg. 33871 (June 3, 2022); USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 86–87.

²¹⁷ 87 Fed. Reg. 17380 (March 28, 2022); 87 Fed. Reg. 78187 (December 21, 2022); USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 87.

²¹⁸ 19 U.S.C. § 2417(c).

²¹⁹ 87 Fed. Reg. 55073 (September 8, 2022); USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 87.

²²⁰ 87 Fed. Reg. 62914 (October 17, 2022); USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 87.

Representative initiated an investigation of the French DST under section 301 of the Trade Act.²²¹ After holding a hearing and receiving written submissions as well as advice from the interagency Section 301 Committee, on December 2, 2019, USTR issued a report setting out its factual findings.²²²

On December 6, 2019, the Trade Representative determined under sections 301(b) and 304(a) of the Trade Act²²³ that the French DST is unreasonable or discriminatory and burdens or restricts U.S. commerce and is thus actionable under the section 301 provisions of the Trade Act. USTR solicited public comments on a proposed trade action consisting of additional duties of up to 100 percent on certain products of France. USTR sought comment on the option of imposing fees or restrictions on services of France.²²⁴ On July 10, 2020, the Trade Representative determined that the appropriate action was to impose duties of 25 percent on certain products of France. The Trade Representative simultaneously suspended application of the additional duties for a period up to 180 days, or until January 6, 2021.²²⁵ The goal was to allow additional time for discussions that could lead to resolution of the matter. On January 6, 2021, USTR suspended the action again, this time for the purpose of coordinating with other DST investigations noted below.²²⁶

On June 2, 2020, the Trade Representative initiated section 301 investigations of DSTs adopted or under consideration in 10 jurisdictions: Austria, Brazil, Czechia, the EU, India, Indonesia, Italy, Spain, Turkey, and the United Kingdom (UK).²²⁷ In January 2021, the Trade Representative found that DSTs adopted by Austria, India, Italy, Spain, Turkey, and the UK were subject to action under section 301.²²⁸ The Trade Representative further found that because the remaining four jurisdictions—Brazil, Czechia, the EU, and Indonesia—had not adopted or implemented the DSTs under consideration when the investigations were initiated, the respective investigations would be terminated without further proceedings.²²⁹

On October 8, 2021, the United States and 136 other member jurisdictions joined the “Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy” adopted by the Organisation for Economic Co-operation and Development (OECD) and the 19 sovereign countries, the European Union, and the African Union comprising the Group of Twenty (G20).²³⁰ On October 21, 2021, the United States, Austria, France, Italy, Spain, and the UK issued a joint statement that describes a political compromise reached among these countries “on a transitional approach to existing Unilateral Measures while implementing Pillar 1.”²³¹ According to the joint statement, digital services tax (DST) liability that accrues to Austria, France, Italy, Spain, and the UK during a transitional

²²¹ 84 Fed. Reg. 34042 (July 16, 2019).

²²² USTR, “Report on France’s Digital Services Tax,” December 2, 2019.

²²³ 19 U.S.C. §§ 2411(b) and 2414(a).

²²⁴ 84 Fed. Reg. 66956 (December 6, 2019).

²²⁵ 85 Fed. Reg. 43292 (July 16, 2020).

²²⁶ 86 Fed. Reg. 2479 (January 12, 2021).

²²⁷ 85 Fed. Reg. 34709 (June 5, 2020).

²²⁸ Austria: 86 Fed. Reg. 30361 (June 7, 2021); India: 86 Fed. Reg. 30356 (June 7, 2021); Italy: 86 Fed. Reg. 30350 (June 7, 2021); Spain: 86 Fed. Reg. 30358 (June 7, 2021); Turkey: 86 Fed. Reg. 30353 (June 7, 2021); United Kingdom: 86 Fed. Reg. 30364 (June 7, 2021).

²²⁹ 86 Fed. Reg. 16828 (March 31, 2021); USTR, “Section 301,” accessed April 8, 2022.

²³⁰ OECD, “Statement on a Two-Pillar Solution to Address the Tax Challenges,” October 8, 2021; USTR, 2022 *National Trade Estimate Report*, March 2022, 522. For more information on the work of the OECD, see chapter 4.

²³¹ U.S. Treasury, “Joint Statement from the United States, Austria, France,” October 21, 2021; USTR, 2022 *National Trade Estimate Report*, March 2022, 522.

period before implementation of Pillar 1 will be creditable in defined circumstances against future corporate income tax liability due under Pillar 1.²³² In light of the agreement, the United States terminated the existing section 301 trade actions on goods of Austria, France, Italy, Spain, and the UK, and committed to not take further trade actions against these countries with respect to their existing DSTs, provided they follow through on the agreement in the joint statement, until either the date that the Pillar 1 multilateral convention comes into force or December 31, 2023, whichever comes first.²³³ The United States also reached similar separate agreements with Turkey and India, which also resulted in the United States terminating its existing section 301 actions against each country.²³⁴ USTR, in coordination with the U.S. Department of the Treasury (U.S. Treasury), indicated it will continue to monitor implementation of the political agreement by Austria, France, Italy, Spain, the UK, Turkey, and India,²³⁵ a position that remained in effect in 2022.²³⁶

Large Civil Aircraft Subsidies by the EU and Certain Current or Former Member States

On April 12, 2019, the Trade Representative initiated a section 301 investigation to enforce U.S. rights in a WTO dispute (DS316). The investigation had been initiated on October 6, 2004, when the United States requested consultations with the European Communities (now the EU), France, Germany, Spain, and the UK over certain subsidies granted to the EU's large civil aircraft industry.²³⁷ For more information on this dispute and the subsequent WTO proceedings, see chapter 3.

In preparation for a WTO arbitrator's report on the appropriate level of countermeasures, USTR held public hearings and received written submissions regarding lists of products valued at \$25 billion, for which additional duties of up to 100 percent ad valorem were being considered.²³⁸ On October 2, 2019, the WTO arbitrator issued a report concluding that the appropriate level of countermeasures was about \$7.5 billion annually.²³⁹ On October 9, 2019, the Trade Representative announced the determination to take action in the form of additional duties of 10 percent or 25 percent ad valorem. The duties, effective October 18, 2019, were to be on products of certain member states with an annual trade value of about \$7.5 billion.²⁴⁰ Upon subsequent review,²⁴¹ tariffs on aircraft imports from France, Germany, Spain, and

²³² USTR, *2022 National Trade Estimate Report*, March 2022, 174; 86 Fed. Reg. 64590 (November 16, 2021).

²³³ 86 Fed. Reg. 64590 (November 16, 2021).

²³⁴ Turkey: 86 Fed. Reg. 68295 (December 1, 2021); India: 86 Fed. Reg. 68526 (December 2, 2021); U.S. Treasury, "Joint U.S.-Turkey Statement," November 22, 2021; U.S. Treasury, "Treasury Announces Agreement on the Transition from Existing Indian Equalization Levy," November 24, 2021.

²³⁵ USTR, *2022 National Trade Estimate Report*, March 2022, 263, 499, 522.

²³⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 89–94.

²³⁷ 84 Fed. Reg. 15028 (April 12, 2019). The European Community, the EU's predecessor, was established in 1957 with six founding members. In 1993, the EU was established with 12 member states and grew to 15 during 1995–2004. Ten new member states joined during 2004–06, followed by three additional members in 2007–13. The EU contracted to 27 members in 2020 with the departure of the UK. EC, "Glossary: EU Enlargements," accessed April 4, 2022.

²³⁸ USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 45.

²³⁹ Decision by the Arbitrator, *European Communities and Certain Member States—Measures Affecting Trade in Large Civil Aircraft*, 9.2, adopted October 2, 2019.

²⁴⁰ 84 Fed. Reg. 54245 (October 9, 2019).

²⁴¹ 84 Fed. Reg. 67992 (December 12, 2019); 85 Fed. Reg. 10204 (February 12, 2020; WTO, "DS353: United States," November 26, 2020; USTR, "United States Modifies Tariffs in Large Civil Aircraft," December 30, 2020.

the UK were increased from 10 percent to 15 percent ad valorem. The list of various agricultural, food, alcohol, machinery, equipment, textile, and apparel products from certain EU member states subject to 25 percent ad valorem tariffs²⁴² also was modified, effective March 18, 2020.²⁴³

On June 26, 2020, the Trade Representative announced another review of the action, including a proposal to impose additional ad valorem duties of up to 100 percent on a new list of products with an approximate annual trade value of \$3.1 billion.²⁴⁴ The Trade Representative announced a revised action on August 12, 2020. This included a determination that the action could be revised again upon any imposition of additional duties on U.S. products in connection with the dispute or with the EU's WTO challenge to the alleged subsidization of U.S. large civil aircraft.²⁴⁵ The list of non-aircraft products subject to 25 percent tariffs was modified with changes effective September 1, 2020.²⁴⁶ In late December 2020, the Trade Representative announced further modifications to these tariffs, which entered into effect on January 12, 2021.²⁴⁷

In June 2021, the United States announced similar yet separate cooperative frameworks with the EU and the UK to address the large civil aircraft dispute by suspending the tariffs related to the dispute for five years and agreeing upon a set of principles that will guide the cooperation between them in this sector.²⁴⁸ In line with the framework, the Trade Representative determined to suspend the action resulting from the section 301 investigation for five years. This began July 4, 2021, with respect to tariffs on goods of the UK and July 11, 2021, with respect to tariffs on goods of EU member states.²⁴⁹ USTR will monitor EU and UK implementation of the framework understandings and their respective measures related to the matters covered in the dispute. If the Trade Representative determines that either the EU or the UK is not satisfactorily implementing the agreement or associated measures, then the Trade Representative will consider further action under section 301. This position remained in effect in 2022.²⁵⁰

Vietnam Currency

On October 2, 2020, the Trade Representative initiated a section 301 investigation of whether Vietnam's acts, policies, and practices related to currency valuation are unreasonable or discriminatory and burden or restrict U.S. commerce. According to USTR, the government of Vietnam, through the State Bank of Vietnam, tightly manages the value of its currency and, according to available analysis, the currency has been undervalued for the past three years. USTR further stated that the State Bank of Vietnam actively

²⁴² An ad valorem tariff, which is the most common tariff form, calculates the duty as a percentage of the value of the product. World Bank, "Forms of Import Tariffs," accessed April 18, 2022.

²⁴³ 85 Fed. Reg. 10204 (February 21, 2020).

²⁴⁴ 85 Fed. Reg. 38488 (June 26, 2020), as amended by 85 Fed. Reg. 39661 (July 1, 2020).

²⁴⁵ 85 Fed. Reg. 50866 (August 18, 2020). Please see chapter 3 for a discussion of the WTO actions.

²⁴⁶ 85 Fed. Reg. 50866 (August 18, 2020).

²⁴⁷ 86 Fed. Reg. 674 (January 6, 2021); USTR, "United States Modifies Tariffs in Large Civil Aircraft," December 30, 2020.

²⁴⁸ USTR, "Joint U.S.-E.U. Cooperative Framework for Large Civil Aircraft," June 15, 2021; USTR, "Joint US-UK Cooperative Framework for Large Civil Aircraft," June 17, 2021.

²⁴⁹ 86 Fed. Reg. 36313 (July 9, 2021).

²⁵⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 96.

engaged in the exchange market in 2019, which contributed to the undervaluation.²⁵¹ USTR solicited written comments and convened a virtual public hearing on the issue on December 29, 2020.²⁵²

On January 22, 2021, the Trade Representative determined that Vietnam’s acts, policies, and practices related to the undervaluation of its currency through excessive foreign exchange market interventions were unreasonable under U.S. and international norms. The Trade Representative further determined that these activities constitute a burden or restriction on U.S. commerce and, accordingly, are actionable under section 301(b) of the Trade Act.²⁵³ On July 23, 2021, the Trade Representative found that no action under the section 301 investigation was warranted at the time in light of an agreement regarding currency practices between the U.S. Treasury and the State Bank of Vietnam.²⁵⁴ USTR and the U.S. Treasury indicated that they will monitor Vietnam’s implementation of the agreement. If the Trade Representative determines that Vietnam is not satisfactorily implementing the agreement or associated measures, then the Trade Representative will consider further action under section 301.²⁵⁵ In 2022, USTR, in coordination with Treasury, continued to monitor implementation of commitments and associated measures.²⁵⁶

Vietnam Timber

On October 2, 2020, the Trade Representative initiated a section 301 investigation regarding whether acts, policies, and practices related to Vietnam’s import and use of illegally harvested or traded timber are unreasonable or discriminatory and burden or restrict U.S. commerce. According to USTR, evidence suggests that a significant portion of Vietnam’s timber imports, upon which the country’s wood products manufacturing sector relies, was illegally harvested or traded. USTR raised particular concerns about timber from Cambodia, as well as other countries.²⁵⁷ USTR solicited written comments and convened a virtual public hearing on December 28, 2020.²⁵⁸ On October 1, 2021, the Trade Representative announced that the United States and Vietnam had reached an agreement addressing U.S. concerns about Vietnamese timber.²⁵⁹ In April 2022 and November 2022, the United States and Vietnam convened meetings of the Timber Working Group, which was established to facilitate coordination and oversee implementation of the agreement.²⁶⁰ The Trade Representative indicated that USTR will continue to monitor Vietnam’s implementation of the commitments it made in the agreement.²⁶¹

²⁵¹ 85 Fed. Reg. 63637 (October 8, 2020).

²⁵² 85 Fed. Reg. 75397 (November 25, 2020).

²⁵³ 86 Fed. Reg. 6732 (January 22, 2021); USTR, *Report on Vietnam’s Acts, Policies, and Practices*, January 15, 2021.

²⁵⁴ 86 Fed. Reg. 40675 (July 28, 2021).

²⁵⁵ USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 47.

²⁵⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 97.

²⁵⁷ 85 Fed. Reg. 63639 (October 8, 2020).

²⁵⁸ USTR, “Vietnam’s Import and Use of Illegal Timber,” accessed April 4, 2022.

²⁵⁹ USTR, “US-Vietnam Agreement to Resolve Timber Section 301 Investigation,” October 1, 2021.

²⁶⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 97.

²⁶¹ 86 Fed. Reg. 55681 (October 6, 2021).

Special 301 Investigations

USTR conducts an annual review of the state of intellectual property rights enforcement and protection in U.S. trading partners pursuant to section 182 of the Trade Act, as amended (known as “special 301”).²⁶² Section 182(a) of the Trade Act requires the Trade Representative to identify “those foreign countries that deny adequate and effective protection of intellectual property rights, or deny fair and equitable market access to United States persons that rely on intellectual property protection.”²⁶³ Under section 182(b), the Trade Representative identifies “priority foreign countries” as those that (1) have the most onerous or egregious acts, policies, or practices with the greatest actual or potential impact and (2) are not entering into—or making significant progress in—good faith negotiations. Priority foreign countries are subject to an investigation under section 301 of the Trade Act.²⁶⁴

To aid in the administration of the statute, USTR created a watch list and a priority watch list. Placement of a trading partner on either list means that particular problems exist in that country with respect to protection, enforcement, or market access for persons relying on intellectual property rights. Countries placed on the priority watch list are the focus of increased bilateral attention during a given year.²⁶⁵ Section 182(a), as amended, directs the Trade Representative to develop action plans for each country placed on the priority watch list and that has also been on the priority watch list for at least one year.²⁶⁶

USTR solicited broad public participation in the 2022 special 301 review process through a request for written submissions rather than an in-person hearing because of concerns related to the COVID-19 pandemic.²⁶⁷ The interagency Special 301 Subcommittee of the Trade Policy Staff Committee (“the subcommittee”) sent written questions regarding issues relevant to the review to those who submitted written comments, including representatives of foreign governments, industry, and nongovernmental organizations.²⁶⁸ USTR and the subcommittee assessed U.S. trading partners’ intellectual property rights protection and enforcement, as well as related market access issues. Following this assessment, the subcommittee, through the Trade Policy Staff Committee, provided advice to USTR.²⁶⁹

USTR issued the *2022 Special 301 Report* on April 27, 2022. In the report, USTR placed seven countries on the priority watch list: Argentina, Chile, China, India, Indonesia, Russia, and Venezuela.²⁷⁰ These countries were also on the priority watch list in the *2021 Special 301 Report*. USTR did not list Saudi Arabia or Ukraine on the priority watch list for 2022, notwithstanding their appearance on the 2021 priority watch list. Saudi Arabia’s removal was reportedly based on publication of intellectual property enforcement procedures; creation of specialized courts and training of specialists within government authorities; steps to enhance intellectual property awareness; outreach, training, support, and coordination; and increased enforcement against counterfeit and pirated goods and online pirated

²⁶² 19 U.S.C. § 2242.

²⁶³ 19 U.S.C. § 2242(a).

²⁶⁴ 19 U.S.C. § 2242(b).

²⁶⁵ USTR, *2022 Special 301 Report*, April 27, 2022, 6.

²⁶⁶ 19 U.S.C. § 2242(g); USTR, *2022 Special 301 Report*, April 27, 2022, 6.

²⁶⁷ 86 Fed. Reg. 70885 (December 13, 2021); USTR, *2022 Special 301 Report*, April 27, 2022, 6.

²⁶⁸ USTR, *2022 Special 301 Report*, April 27, 2022, 6.

²⁶⁹ USTR, *2022 Special 301 Report*, April 27, 2022, 7.

²⁷⁰ USTR, *2022 Special 301 Report*, April 27, 2022, 5.

content.²⁷¹ The Special 301 review of Ukraine was suspended in 2022 due to Russia’s further invasion of Ukraine.²⁷²

Antidumping and Countervailing Duty Investigations and Reviews

Antidumping Investigations

The U.S. antidumping law is found in Title VII of the Tariff Act of 1930, as amended.²⁷³ This law offers relief to U.S. industries that are materially injured by imports that are dumped—that is, sold at “less than fair value” (LTFV). The U.S. government provides a remedy by imposing an additional duty on LTFV imports.

Antidumping duties are imposed when (1) the USDOC has determined that imports are being, or are likely to be, sold at LTFV in the United States and (2) the Commission has determined that a U.S. industry is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of such imports. Such a conclusion is called an “affirmative determination.” Investigations are generally initiated in response to a petition filed with the USDOC and the Commission by or on behalf of a U.S. industry but can be initiated by the USDOC. The USDOC and the Commission each make preliminary determinations and, if the Commission’s preliminary determination is affirmative, each agency then will make final determinations during the investigation process.

In general, imports are considered to be sold at LTFV when a foreign firm sells merchandise in the U.S. market at a price that is lower than the “normal value” of the merchandise.²⁷⁴ Generally, normal value is the price the foreign firm charges for a comparable product sold in its home market.²⁷⁵ Under certain circumstances, the foreign firm’s U.S. sales price may also be compared with the price the foreign firm charges in other export markets or with the firm’s cost of producing the merchandise, taking into account the firm’s “selling, general, and administrative expenses” and its profit. Under the law, the latter basis for comparison is known as “constructed value.”²⁷⁶ Finally, when the producer is located in a nonmarket economy, a comparison is made between average U.S. prices and a “surrogate” normal value (its factors of production, as valued by use of a “surrogate” country).²⁷⁷ A nonmarket-economy country means any foreign country that the administering authority determines does not operate on market

²⁷¹ USTR, *2022 Special 301 Report*, April 27, 2022, 10.

²⁷² USTR, *2022 Special 301 Report*, April 27, 2022, 6.

²⁷³ 19 U.S.C. § 1673 et seq.

²⁷⁴ 19 U.S.C. § 1677(35)(A); see also 19 U.S.C. § 1677a(a) (defining export price), § 1677a(b) (defining constructed export price).

²⁷⁵ 19 U.S.C. § 1677b.

²⁷⁶ 19 U.S.C. § 1677b(a)(4), § 1677b(e).

²⁷⁷ 19 U.S.C. § 1677b(c). Some examples of factors of production include hours of labor required, quantity of raw materials employed, amount of energy and other utilities consumed, and representative capital cost, including depreciation. 19 U.S.C. § 1677b(c)(3).

principles of cost or pricing structures. Therefore, prices paid on sales of merchandise in such a country do not reflect the fair value of the merchandise.²⁷⁸

In all three instances, the amount by which the normal value exceeds the U.S. sales price is the “dumping margin.” The duty specified in an antidumping duty order reflects the weighted average dumping margins found by the USDOC, both for the specific exporters it examined and for all other exporters.²⁷⁹ This rate of duty (in addition to any ordinary customs duty owed) will be applied to subsequent imports from the specified producers/exporters in the subject country and may be adjusted if the USDOC receives a request for an annual review.²⁸⁰

The Commission instituted 15 new antidumping investigations and made 19 preliminary determinations and 21 final determinations in 2022.²⁸¹ As a result of these affirmative final USDOC and Commission determinations, the USDOC issued 15 antidumping duty orders on nine products from eight countries in 2022 (table 2.1). The status of all antidumping investigations active at the Commission during 2022—including, if applicable, the date of final action—is presented in the online [interactive dashboard](#). A list of all antidumping duty orders and suspension agreements (agreements to suspend investigations) in effect as of year-end 2022 appears in the online [interactive dashboard](#).²⁸²

²⁷⁸ 19 U.S.C. § 1677(18)(A).

²⁷⁹ 19 U.S.C. § 1677(35)(B); 19 U.S.C. § 1673d(c).

²⁸⁰ 19 U.S.C. § 1675(a).

²⁸¹ Data reported here and in the following two sections (“Countervailing Duty Investigations” and “Reviews of Outstanding Antidumping and Countervailing Duty Orders/Suspension Agreements”) reflect the total number of investigations. In other Commission reports, these data are grouped by product because the same investigative team and all of the parties participate in a single grouped proceeding, and the Commission generally produces one report and issues one opinion containing its separate determinations for each investigation.

²⁸² An antidumping investigation may be suspended if exporters accounting for substantially all of the imports of the merchandise under investigation agree either to eliminate the dumping or to cease exports of the merchandise to the United States within six months. In extraordinary circumstances, an investigation may be suspended if exporters agree to revise prices to completely eliminate the injurious effect of exports of the merchandise in question to the United States. A suspended investigation is resumed, assuming it was not continued after the suspension agreement was issued, if the USDOC determines that the suspension agreement has been violated. See 19 U.S.C. § 1673c.

Table 2.1 Antidumping duty orders that became effective during 2022 (alphabetical by trade partner)
In percentages.

Trade partner	Product	Range of dumping margins (%)
Argentina	Oil country tubular goods	78.30
Argentina	Raw honey	9.17–49.44
Brazil	Raw honey	7.89–83.72
China	Mobile access equipment	31.70–165.30
China	Pentafluoroethane (R-125)	277.95–278.05
China	Walk-behind snow throwers	163.27–223.07
India	Granular polytetrafluoroethylene resin	13.09
India	Organic soybean meal	3.07–18.80
India	Raw honey	5.52–6.24
Mexico	Oil country tubular goods	44.93
Russia	Granular polytetrafluoroethylene resin	17.99
Russia	Oil Country tubular goods	12.01–184.21
Russia	Sodium nitrite	207.17
South Korea	Superabsorbent polymers	17.64
Vietnam	Raw honey	58.74–61.27

Source: Compiled by the USITC from *Federal Register* notices.

Notes: Antidumping duty orders become effective following final affirmative determinations by the USDOC and the Commission. The rates in the table apply in addition to any ordinary customs duty owed.

Countervailing Duty Investigations

The U.S. countervailing duty law is also set forth in Title VII of the Tariff Act of 1930, as amended. It provides for the imposition of additional duties to offset (“countervail”) foreign subsidies on products imported to the United States.²⁸³ In general, procedures for such investigations are similar to those under the antidumping law. Petitions are filed with the USDOC (administering authority) and with the Commission. Before a countervailing duty order can be issued, the USDOC must find that a countervailable subsidy exists. In addition, the Commission must make an affirmative determination that a U.S. industry is materially injured or threatened with material injury, or that the establishment of an industry is materially retarded, because of the subsidized imports.

The Commission instituted seven new countervailing duty investigations and made 11 preliminary determinations and 15 final determinations during 2022. The USDOC issued eight countervailing duty orders on six products from four countries in 2022 as a result of affirmative USDOC and Commission determinations (table 2.2). The status of all countervailing duty investigations active at the Commission during 2022 and, if applicable, the date of final action, is presented in the online

²⁸³ A subsidy is defined as a financial benefit given by an authority (a government of a country or any public entity within the territory of the country) to a person in which the authority either (1) provides a financial contribution, (2) provides any form of income or price support within the meaning of Article XVI of the General Agreement on Tariffs and Trade 1994, or (3) makes a payment to a funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments. See 19 U.S.C. § 1677(5)(B).

[interactive dashboard](#). A list of all countervailing duty orders and suspension agreements in effect at year-end 2022 appears in the online [interactive dashboard](#).²⁸⁴

Table 2.2 Countervailing duty orders that became effective during 2022 (alphabetical by trade partner)
In percentages.

Trade partner	Product	Range of countervailable subsidy rates (%)
China	Pentafluoroethane (R-125)	2.31–291.26
China	Walk-behind snow throwers	203.06
India	Granular polytetrafluoroethylene resin	31.89
India	Organic soybean meal	9.57–283.91
Russia	Granular polytetrafluoroethylene resin	2.53
Russia	Oil country tubular goods	1.30–1.59
Russia	Sodium nitrite	386.24
South Korea	Oil country tubular goods	0.25–1.33

Source: Compiled by the USITC from *Federal Register* notices.

Notes: Countervailing duty orders become effective following final affirmative determinations by the USDOC and the USITC. The rates in the table apply in addition to any ordinary customs duty owed.

Reviews of Outstanding AD/CVD Orders and Suspensions Agreements

Section 751(a) of the Tariff Act of 1930 requires the USDOC, if requested, to conduct annual reviews of outstanding antidumping duty and countervailing duty orders to ascertain the amount of any net subsidy or dumping margin and to determine compliance with suspension agreements.²⁸⁵ Section 751(b) also authorizes the USDOC and the Commission, as appropriate, to review certain outstanding determinations and agreements after receiving information or a petition that shows changed circumstances.²⁸⁶ Where a changed-circumstances review is directed to the Commission, the party that is asking to have an antidumping duty order or countervailing duty order revoked or a suspended investigation terminated has the burden of persuading the Commission that circumstances have changed enough to warrant action.²⁸⁷

The sunset process began in 1995. It is subject to section 751(c) of the Tariff Act of 1930, which requires both the USDOC and the Commission to conduct “sunset” reviews of existing antidumping duty and countervailing duty orders and suspension agreements five years after their initial publication and five years after publication of any subsequent determination to continue them.²⁸⁸ These reviews are

²⁸⁴ A countervailing duty investigation may be suspended if the government of the subsidizing country or exporters accounting for substantially all of the imports of the merchandise under investigation agree to eliminate the subsidy, to completely offset the net subsidy, or to cease exports of the merchandise to the United States within six months. In extraordinary circumstances, an investigation may be suspended if the government of the subsidizing country or exporters agrees to completely eliminate the injurious effect of exports of the merchandise in question to the United States. A suspended investigation is resumed, assuming it had not previously been continued after issuance of the suspension agreement, if the USDOC determines that the suspension agreement has been violated. See 19 U.S.C. § 1671c.

²⁸⁵ 19 U.S.C. § 1675(a).

²⁸⁶ 19 U.S.C. § 1675(b).

²⁸⁷ 19 U.S.C. § 1675(b)(3).

²⁸⁸ 19 U.S.C. § 1675(c).

intended to determine whether revoking an order or terminating a suspension agreement would likely lead to the continuation or recurrence of dumping or a countervailable subsidy and to material injury. If either the USDOC or the Commission reaches negative determinations, the order will be revoked, or the suspension agreement terminated.

During 2022, the USDOC and the Commission instituted 100 sunset reviews of existing antidumping and countervailing duty orders or suspended investigations and the Commission completed 108 reviews (9 additional reviews were terminated before a Commission determination). As a result of affirmative determinations by the USDOC and the Commission, 103 antidumping duty and countervailing duty orders were continued. The Commission also issued five negative determinations; as a result, the subject order was not continued. The online [interactive dashboard](#) lists, by date and action, the reviews of antidumping duty and countervailing duty orders and suspended investigations completed or terminated in 2022.

Section 129 Determinations

Section 129 of the Uruguay Round Agreements Act provides a procedure by which the United States might determine its response to an adverse WTO panel or Appellate Body report concerning U.S. obligations under the WTO Agreements on Safeguards, Antidumping, or Subsidies and Countervailing Measures. Section 129 also establishes a mechanism that permits the agencies concerned (the USDOC and the Commission) to issue a second determination, where such action is appropriate, to respond to the recommendations in a WTO panel or Appellate Body report.²⁸⁹

The USDOC conducted one proceeding under section 129 during 2022 to consider the determinations necessary to bring certain U.S. measures into conformity with the recommendations and rulings of the WTO Dispute Settlement Body (DSB) in *United States–Antidumping and Countervailing Duties on Ripe Olives from Spain* (WTO/DS577). The dispute concerned the USDOC’s final determination issued in the countervailing duty (CVD) investigation on ripe olives from Spain, specifically the rate calculation for one company, benefits to downstream agricultural processors, and certain factual findings related to specificity. Following consultations with USTR, the USDOC on July 6, 2022, opened a segment in the CVD proceeding to commence action to comply with the DSB’s recommendations and implement the new determination. The USDOC informed interested parties that it was initiating administrative action under section 129, addressed each of the issues and conclusions of the panel in DS577 through a preliminary determination memorandum, and invited interested parties to comment on the Preliminary Determination.²⁹⁰ After receiving case briefs and rebuttal comments from interested parties, the USDOC on December 20, 2022, issued its final determination for the section 129 determination.²⁹¹ On January 12, 2023, USTR notified the USDOC that, consistent with section 129(b)(3) of the Uruguay Round Agreements Act, consultations with the USDOC and the appropriate congressional committees with respect to the December 20, 2022, determination have been completed and USTR directed the USDOC to implement the determination in accordance with section 129(b)(4) of the Uruguay Round

²⁸⁹ 19 U.S.C. § 3538; see also Uruguay Round Agreements Act, Statement of Administrative Action, H.R. Doc. 316 Vol. 1, 103rd Cong., 2d Sess. (1994) at 353.

²⁹⁰ USDOC, ITA, “Notice of Commencement of a Compliance Proceeding Pursuant,” July 11, 2022.

²⁹¹ USDOC, Memorandum, “Ripe Olives from Spain: Final Section 129 Determination,” dated December 20, 2022 (Final Determination).

Agreements Act. As a result of the final determination, the subsidy rates were recalculated and reduced.²⁹²

Section 337 Investigations

Background

Section 337 of the Tariff Act of 1930, as amended,²⁹³ prohibits various unfair acts in the importation and sale of articles in the United States and is most commonly asserted in connection with allegations of patent infringement. In this context, section 337 prohibits the importation into the United States, the sale for importation, and the sale within the United States after importation of articles that infringe a valid and enforceable U.S. patent, provided that an industry in the United States, relating to articles protected by the patent concerned, exists or is in the process of being established.²⁹⁴

Similar requirements govern investigations involving infringement of other federally registered intellectual property rights, including registered trademarks, registered copyrights, registered mask works, and registered vessel hull designs. In addition, the Commission has general authority to investigate other unfair methods of competition and unfair acts in the importation and sale of products in the United States (such as products manufactured abroad using stolen trade secrets), the threat or effect of which is to destroy or injure a U.S. industry, to prevent the establishment of a U.S. industry, or to restrain or monopolize trade and commerce in the United States.²⁹⁵ The Commission may institute an investigation on the basis of a complaint or on its own initiative.²⁹⁶

If the Commission determines that a violation of section 337 has occurred, it will issue an exclusion order directing U.S. Customs and Border Protection to block the imports in question from entry into the United States.²⁹⁷ This can take the form of a limited exclusion order, excluding the products of a named respondent in an investigation, or a general exclusion order, excluding all infringing products, regardless of source. The Commission can also issue cease and desist orders that direct the violating parties to stop

²⁹² USDOC, ITA, “Ripe Olives from Spain,” January 19, 2023. On April 23, 2023, the European Union requested consultations in this matter under Article 21.5 of the WTO Dispute Settlement Understanding (see WT/DS577/15 (May 2, 2023)).

²⁹³ 19 U.S.C. § 1337.

²⁹⁴ Section 337 also applies to articles that are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable U.S. patent. 19 U.S.C. § 1337(a)(1)(B)(ii).

²⁹⁵ Other unfair methods of competition and unfair acts have included common-law trademark infringement, trademark dilution, trade dress infringement, false advertising, false designation of origin, and antitrust violations. Unfair practices that involve the importation of dumped or subsidized merchandise must be pursued under antidumping or countervailing duty provisions, not under section 337.

²⁹⁶ 19 U.S.C. § 1337(b)(1). Once instituted, section 337 investigations at the Commission are conducted before an administrative law judge (ALJ) in accordance with the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. The ALJ conducts an evidentiary hearing and makes an initial determination, which is transmitted to the Commission for review. If the Commission finds a violation, it must determine the appropriate remedy, the amount of any bond to be collected while its determination is under review by USTR, and whether public interest considerations preclude issuing a remedy.

²⁹⁷ Although rare, the Commission may also issue temporary or preliminary relief pending the outcome of an investigation. 19 U.S.C. § 1337(e).

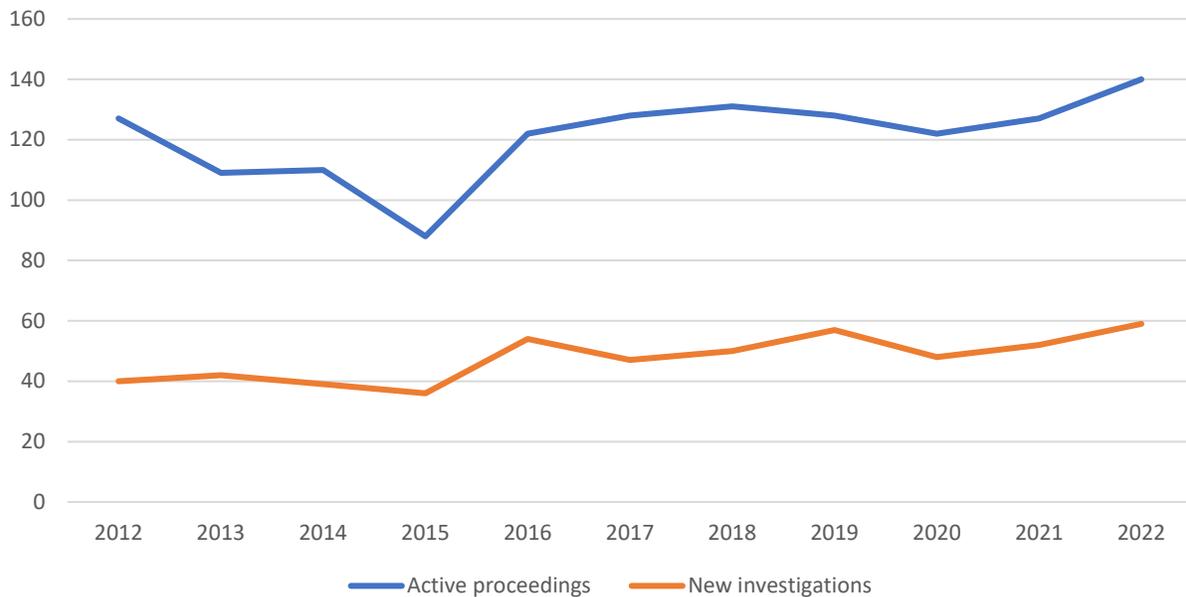
engaging in the unlawful practices. These orders enter into force unless disapproved for policy reasons by USTR within 60 days of issuance.²⁹⁸

Developments in 2022

During 2022, section 337 activity remained elevated. There were 140 active section 337 investigations and ancillary (secondary) proceedings.²⁹⁹ Of these, 80 new proceedings were instituted that year, including 59 new section 337 investigations and 21 new ancillary proceedings relating to previously concluded investigations. Figure 2.1, set forth below, shows active investigations and new proceedings since 2012.

Figure 2.1 Number of active section 337 proceedings and new section 337 investigations, by year, 2012–22

Underlying data for this figure can be found in appendix [table A.13](#).



Source: USITC calculations.

In 54 of the 59 new section 337 investigations instituted in 2022, patent infringement was the only type of unfair act alleged. Of the remaining 5 investigations, 1 involved allegations of trade secret misappropriation; 1 involved allegations of trade secret misappropriation and tortious interference; 1 involved allegations of trade secret misappropriation and unfair competition; 1 involved allegations of patent infringement, trademark infringement, and trade dress infringement; and 1 involved allegations of false advertising.

The Commission completed a total of 83 investigations and ancillary proceedings under section 337 in 2022, including 5 rescission proceedings, 1 remand proceeding, 3 advisory opinion proceedings, 2 modification proceedings, 2 bond-related proceedings, 2 enforcement proceedings, 4 sanctions

²⁹⁸ 19 U.S.C. § 1337(j). Although the statute reserves the review for the President, since 2005 this function has been officially delegated to USTR. 70 Fed. Reg. 43251 (July 26, 2005).

²⁹⁹ An ancillary proceeding is a secondary proceeding related to a previously concluded section 337 investigation.

proceedings, and 1 declassification proceeding.³⁰⁰ In addition, the Commission issued 8 general exclusion orders, 14 limited exclusion orders, and 61 cease and desist orders during 2022. Of the 36 investigations in which the Commission rendered a final determination on the merits, the Commission found a violation of section 337 in 22 and no violation in 14. The Commission terminated 27 investigations without determining whether a violation had occurred; 23 of those were terminated on the basis of settlement agreements or consent orders, 3 were terminated following withdrawal of the complaint, and 1 was terminated for other good cause. Commission activities involving 337 proceedings in 2022 are presented in an [interactive dashboard](#).

As in past years, the section 337 investigations active in 2022 involved a broad spectrum of products. Technology products remained the single largest category, with 35 percent of the active proceedings involving computer and telecommunications equipment and another 15 percent involving consumer electronics. The next-largest category was pharmaceuticals and medical devices, which were at issue in about 9 percent of the active proceedings. Other articles at issue in section 337 investigations in 2022 included lighting products, chemicals, printing products, knitted footwear, golf club connectors, refrigerator water filters, toy projectile launchers, pillows and seat cushions, marine air conditioning systems, and hazelnuts. A listing of the categories of products at issue is set forth below.

Table 2.3 Product types at issue in active 337 proceedings, by percentage of active proceedings, 2022

Category	Share of total (%)
Computer and telecommunications equipment	35.0
Consumer electronics	15.0
Pharmaceuticals and medical devices	9.3
Automotive, manufacturing, and transportation products	4.3
Small consumer products	3.6
Lighting products	3.6
LCDs/TVs	2.1
Chemical compositions	1.4
Integrated circuits	1.4
Printing products	1.4
Other	22.8

Source: USITC calculations.

Note: Share of total rounded to the nearest tenth; because of rounding, totals may not add up to 100 percent.

At the close of 2022, 58 section 337 investigations and ancillary (secondary) proceedings were pending at the Commission. As of December 31, 2022, 144 exclusion orders based on violations of section 337 were in effect. The [interactive dashboard](#) lists the investigations in which these exclusion orders were issued. Copies of the exclusion orders are available on the Commission’s website at https://www.usitc.gov/intellectual_property/exclusion_orders.htm.

In addition, in 2022, the Commission introduced its new data repository, the Investigations Database System (IDS). Detailed information about section 337 investigations instituted since October 1, 2008, is available on IDS, which can be found at <https://ids.usitc.gov/>.

³⁰⁰ A rescission proceeding is a proceeding to determine whether or not to rescind a previously issued remedial order. A remand is a situation in which the U.S. Court of Appeals for the Federal Circuit has directed the Commission to conduct additional proceedings with respect to a previously concluded investigation.

National Security Investigations

Background

Section 232 of the Trade Expansion Act of 1962 (section 232) provides for investigations by the U.S. Secretary of Commerce (Secretary) to determine effects on national security of imports of articles.³⁰¹ Section 232(b) requires the Secretary, upon request of the head of any department or agency, application of an interested party, or the Secretary's own motion, to initiate an appropriate investigation to determine the effects on the national security of imports of the article that is the subject of the request, application, or motion. The Secretary must submit a report to the President within 270 days of initiating an investigation. The report must include the Secretary's findings "with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security" and recommendations for action or inaction. The statute also provides that if the imported article "is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security," the Secretary must so advise the President in the report.³⁰²

Within 90 days of receiving such a report from the Secretary, the President must determine whether to concur with the finding of the Secretary and, in the concurring, must determine the nature and duration of the action that must be taken to adjust imports of the article and its derivatives so that such imports will not threaten to impair the national security.³⁰³

During 2022, the USDOC did not institute any new investigations under the national security provisions in section 232 (table 2.4).³⁰⁴ As discussed in detail below, the USDOC completed its review of whether imports of neodymium-iron-boron permanent magnets threaten U.S. national security and delivered its findings to the President on June 17, 2022.³⁰⁵

³⁰¹ Trade Expansion Act of 1962, Pub. L. No. 87-794, § 232, 76 Stat. 872, 877 (1962) (codified at 19 U.S.C. § 1862).

³⁰² 19 U.S.C. § 1862(b)(3)(A).

³⁰³ 19 U.S.C. § 1862(c)(1)(A).

³⁰⁴ 19 U.S.C. § 1862.

³⁰⁵ USDOC, *Biden-Harris Administration . . . Actions to Secure Rare Earth Element Supply Chain*, September 2022, accompanying USDOC, BIS, *The Effect of Imports of Neodymium-Iron-Boron*, September 2022.

Table 2.4 National security investigations, 2017–22

Investigation	Instituted	Report submitted	Outcome
Steel	April 19, 2017	January 11, 2018	President concurred, tariffs (subsequently converted to other measures or suspended for certain countries)
Aluminum	April 26, 2017	January 17, 2018	President concurred, tariffs (subsequently converted to other measures or suspended for certain countries)
Automobiles and automotive parts	May 23, 2018	February 17, 2019	President concurred, no measures
Uranium	July 18, 2018	April 14, 2019	President did not concur, no tariffs, working group, policy recommendations
Titanium sponge	March 4, 2019	November 29, 2019	President concurred, no tariffs, negotiations
Grain-oriented electrical steel	May 11, 2020	October 15, 2020	Partial determination by Commerce, consultations, and monitoring
Vanadium	May 28, 2020	February 22, 2021	Negative determination by Commerce
Neodymium-Iron-Boron (NdFeB) permanent magnets	September 21, 2021	June 17, 2022	President concurred, no tariffs, support for domestic production, supply, and demand; multilateral engagement; workforce development; research; and monitoring

Sources: USDOC, BIS, “Section 232 Investigations: The Effect of Imports on the National Security.” See also Proclamation No. 9704, 83 Fed. Reg. 11619 (March 15, 2018) and Proclamation No. 9705, 83 Fed. Reg. 11625 (March 15, 2018); USTR, “USTR Statement on Successful Conclusion of Steel Negotiations,” November 5, 2020. (noting that “Mexico will establish a strict monitoring regime for exports of electrical transformer laminations and cores made of non-North American GOES (grain-oriented electrical steel).”); USDOC, *FACT SHEET: Biden-Harris Administration Announces Further Actions to Secure Rare Earth Element Supply Chain*, September 2022, accompanying USDOC, BIS, *The Effect of Imports of Neodymium-Iron-Boron*, September 2022.

Developments in 2022

Section 232 national security investigations are described in detail in Investigation No. 332-591, *Economic Impact of Section 232 and 301 Tariffs on U.S. Industries* and Investigation No. 163-001, *The Year in Trade 2021, Operation of the Trade Agreements Program*. Most investigations conducted since 2017 had no new developments in 2022. The exceptions were the investigations on steel, aluminum, and neodymium-iron-boron permanent magnets.

On January 1, 2022, an agreement between the United States and the EU entered into effect, substituting the additional duties on steel and aluminum imported from the EU with a tariff-rate quota. The tariff-rate quota permits historically based levels of steel and aluminum to be imported to the United States without additional duties up to the quota level, with any above-quota imports subject to the additional duty.³⁰⁶ For further information, please see chapter 6. In addition, over the course of 2022, the President provided duty exemptions within annual tariff-rate quotas on steel originating in Japan, effective April 1, 2022;³⁰⁷ exemptions to section 232 duties on steel articles originating in

³⁰⁶ Proclamation No. 10327, 87 Fed. Reg. 1 (January 3, 2022); Proclamation No. 10328, 87 Fed. Reg. 11 (January 3, 2022); USTR, “Announcement of Actions on EU Imports Under Section 232,” October 31, 2021.

³⁰⁷ Proclamation No. 10356, 87 Fed. Reg. 19351 (April 1, 2022).

Ukraine, effective between June 1, 2022, and June 1, 2023;³⁰⁸ and duty exemptions within annual tariff-rate quotas on steel and aluminum articles originating in the UK, effective June 1, 2022.³⁰⁹

The USDOC completed its review of whether imports of neodymium-iron-boron permanent magnets threaten U.S. national security and delivered its findings to the President on June 17, 2022. The USDOC found that the current quantities and circumstances of imports of neodymium-iron-boron permanent magnets threaten to impair the national security as defined in section 232 of the Trade Expansion Act of 1962, as amended.³¹⁰ The Administration stated that it “will implement Commerce’s recommendations including bolstering domestic production throughout the supply chain, promoting demand for U.S.-produced magnets, engaging with allies and partners on supply chain resilience, supporting the development of a highly skilled workforce, and supporting research to mitigate supply chain vulnerabilities, along with other efforts,” and that it “will continue to monitor the domestic supply chain and take appropriate actions.”³¹¹

American Manufacturing Competitiveness Act of 2016

The American Manufacturing Competitiveness Act of 2016 (AMCA) set out a procedure under which members of the public might submit petitions to the Commission for temporary duty suspensions or reductions for inclusion in the MTB.³¹² Submitters were required to demonstrate that they are likely beneficiaries of the requested duty suspension or reduction. Following the receipt of petitions, the Commission was required to evaluate the petitions in accordance with certain statutory criteria, seek public comment, and then file preliminary and final reports with the U.S. House of Representatives Committee on Ways and Means and the U.S. Senate Committee on Finance (Committees).³¹³ Following the submission of its reports, Congress enacted the Miscellaneous Tariff Bill Act of 2018 (Pub. L. No. 115-239, 132 Stat. 2451 (amending the *Harmonized Tariff Schedule of the United States* and 19 U.S.C. § 58c))

³⁰⁸ Proclamation No. 10403, 87 Fed. Reg. 33407 (June 2, 2022).

³⁰⁹ Proclamation No. 10405, 87 Fed. Reg. 33583 (June 3, 2022) and Proclamation 10406, 87 Fed. Reg. 33591 (June 3, 2022).

³¹⁰ USDOC, *The Effect of Imports of Neodymium-Iron-Boron (NdFeB) Permanent Magnets*, February 14, 2023.

³¹¹ 88 Fed. Reg. 9430 (February 14, 2023); USDOC, *Biden-Harris Administration . . . Actions to Secure Rare Earth Element Supply Chain*, September 2022, accompanying USDOC, BIS, *The Effect of Imports of Neodymium-Iron-Boron*, September 2022.

³¹² American Manufacturing Competitiveness Act (AMCA) of 2016, Pub. L. No. 114-159, § 3, 133 Stat. 396, 397–402 (2016) (codified at 19 U.S.C. § 1332 note).

³¹³ Under Section 3(b) of the AMCA, the Commission must determine, among other things: whether or not domestic production of the article that is the subject of the petition exists, taking into account the report of the Secretary of Commerce under Section 3(c)(1) of the AMCA, and, if such production exists, whether or not a domestic producer of the article objects to the duty suspension or reduction; whether the duty suspension or reduction can likely be administered by U.S. Customs and Border Protection; whether the estimated loss in revenue to the United States from the duty suspension or reduction does not exceed \$500,000 in a calendar year during the period it would be in effect; or whether the duty suspension or reduction is available to any person importing the article that is the subject of the duty suspension or reduction. Sec. 3(b)(C), (E) of AMCA, 19 U.S.C. § 1332 note.

and suspended or reduced duties on 1,660 products, effective October 13, 2018, and through December 31, 2020.

In 2020, the Commission completed its second and final cycle of petition analysis under the AMCA. On August 10, 2020, the Commission submitted its final report to the Committees, which provided recommendations on 3,442 petitions for duty suspensions or reductions.³¹⁴ The largest product categories reflected in the 2020 report were chemicals, the category for 1,839 petitions (53 percent of all petitions); machinery and equipment, 715 petitions (21 percent); and textiles, apparel, and footwear, 581 petitions (17 percent). Of the 3,442 petitions, the Commission assigned 2,695 to Categories I through IV, 42 to Category V, and 705 to Category VI.³¹⁵ Neither committee of jurisdiction introduced a bill extending the MTB legislation before the conclusion of the 116th Congress in December 2020.³¹⁶

Legislation was introduced in the House of Representatives in 2021 that would have implemented the duty suspensions recommended by the Commission in its 2020 report through year-end 2023 and extended, with certain modifications, the AMCA procedures in the 2016 act. That bill, H.R. 4037, the Trade Preferences and American Manufacturing Competitiveness Act of 2021, was not enacted before the 117th Congress adjourned at year-end 2022. The bill also would have extended the American Manufacturing Competitiveness Act of 2016 for two future MTB cycles in 2022 and 2025, requiring the Commission to conduct the MTB petition, review, and recommendation process for those additional cycles.³¹⁷

Trade Adjustment Assistance

For several decades, the United States has provided trade adjustment assistance (TAA) to aid U.S. workers and firms adversely affected by import competition. Title IV of the Trade Preferences Extension Act—the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA)—amended and reauthorized TAA for six years, until June 30, 2021.³¹⁸ On June 30, 2022, the authorization for the TAA

³¹⁴ The final report and background information can be accessed on the Commission’s website, see USITC, “Miscellaneous Tariff Bill (MTB) Reports,” accessed June 12, 2023. In preparing this report, the Commission accepted petitions between October 11, 2019, and December 10, 2019, and accepted public comments on the petitions between January 10, 2020, and February 24, 2020. The Commission then evaluated the petitions to determine whether they met certain statutory requirements and submitted a preliminary report on the petitions received to the Committees, on June 9, 2020. The Commission subsequently accepted additional, limited public comments on Category VI petitions from June 12, 2020, through June 22, 2020. The Commission transmitted its final report on August 10, 2020.

³¹⁵ USITC, “USITC Delivers Final Report on Miscellaneous Tariff Bill,” August 10, 2020.

³¹⁶ CRS, *Miscellaneous Tariff Bills (MTBs)*, February 17, 2021.

³¹⁷ See TrackBill, “US Congress HR4037,” accessed June 5, 2023.

³¹⁸ The Trade Adjustment Assistance (TAA) program was first established by the Trade Expansion Act of 1962 and subsequently expanded and reauthorized numerous times. In October 2011, the Trade Adjustment Assistance Extension Act (TAAEA) extended the initial eligibility and benefit provisions until December 31, 2013. Title II of Pub. L. No. 112-40, §§ 211–217, 125 Stat. 401, 403–409 (2011). Beginning January 1, 2014, the TAA program reverted to a more limited set of eligibility and benefit provisions, also called “Reversion 2014 provisions.” TAA continued to operate under the Reversion 2014 provision until the enactment of the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA). Title IV of Pub. L. No. 114-27, §§ 401–407, 129 Stat. 362, 373–383 (2015); 19 U.S.C. § 2701 (notes). TAARA reinstated many of the eligibility and benefit provisions that were enacted by TAAEA. TAARA also contains sunset provisions. 19 U.S.C. § 2271 note.

program expired.³¹⁹ As of December 31, 2022, the TAA program had not been reauthorized.³²⁰ The main TAA programs in effect through June 30, 2022, were TAA for Workers, administered by the U.S. Department of Labor (USDOL), and TAA for Firms, administered by the USDOC.

Regarding the TAA for Workers program, on July 1, 2022, the TAA termination provision under section 285(a) of the Trade Act of 1974, as amended, took effect.³²¹ Consequently, the USDOL may not accept any new petitions or requests for reconsideration and may not issue any determinations.³²² Furthermore, a worker must have been separated or threatened with separation on or before June 30, 2022, to be eligible for any benefits and services under the TAA for Workers program.³²³ In terms of the TAA for Firms (TAAF) program, beginning July 1, 2022, the USDOC's Economic Development Administration (EDA) was no longer able to accept new petitions from firms for certification of eligibility for the TAA through the TAAF program.³²⁴ Trade adjustment assistance, however, may continue to be provided to firms that had submitted their petitions under the TAAF program by June 30, 2022.³²⁵ A third program, TAA for Farmers, administered by the U.S. Department of Agriculture, was reauthorized by Congress in 2015 under the Trade Preferences Extension Act.³²⁶ Congress, however, has not appropriated any funding for the program since 2011.³²⁷ The program lapsed in July 2022 and had not been reauthorized as of December 31, 2022.³²⁸ Table 2.5 provides information on the amount of funding allocated to TAA programs in recent years. Selected developments in TAA programs for workers and firms during FY 2022 are summarized below.

Table 2.5 Funding by the Trade Adjustment Assistance (TAA) program, annual, FY 2018–22

In millions of dollars.

Fiscal Year	TAA for workers	TAA for firms
2018	667	13.0
2019	582	13.0
2020	553	13.0
2021	441	13.5
2022	334	13.5

Source: USTR, *2019 Trade Policy Agenda and 2018 Annual Report*, March 2019, 77–78; USTR, *2020 Trade Policy Agenda and 2019 Annual Report*, February 2020, 139–40; USTR, *2021 Trade Policy Agenda and 2020 Annual Report*, March 2021, 141–42; USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 145–46; USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 211.

³¹⁹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 210–11. When referencing the *USTR 2023 Trade Policy Agenda and 2022 Annual Report*, the citation includes the PDF page numbers instead of the page numbers printed on the pages, because identical page numbers are used in multiple chapters of the report.

³²⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 210–11.

³²¹ TAARA, § 406; 19 U.S.C. § 2271 note; USDOL, “Trade Adjustment Assistance for Workers,” accessed May 19, 2023.

³²² USDOL, “Trade Adjustment Assistance for Workers,” accessed May 19, 2023.

³²³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 210.

³²⁴ USDOC, EDA, “Trade Adjustment Assistance for Firms,” accessed May 19, 2023.

³²⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 211.

³²⁶ TAARA reauthorized the TAA for Farmers program for FY 2015 through FY 2021. 19 U.S.C. § 2401g(a).

³²⁷ McMinimy, *Trade Adjustment Assistance for Farmers*, August 1, 2016, 4–5.

³²⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 211.

Assistance for Workers

The provisions relating to the TAA for Workers program are set out in Chapter 2 of Title II of the Trade Act.³²⁹ The program provides federal assistance to eligible workers who have been adversely affected by import competition. A variety of TAA benefits and services are available to eligible workers, including training, out-of-area job search and relocation allowances, trade readjustment allowances, and reemployment assistance.³³⁰ Current information on provisions of the TAA for Workers program, as well as detailed information on program eligibility requirements, benefits, and available services, is available at the USDOL’s Employment and Training Administration (ETA) website for TAA.³³¹

In order for petitioning workers to be eligible to apply for TAA benefits, the U.S. Secretary of Labor must determine that the workers meet certain criteria relating to the reasons they were separated from their firms, including declining sales or production at their firms and increased imports of like or directly competitive articles.³³²

From January to June 2022, the TAA for Workers program operated under Reversion 2021, which means that the program was operated under the Sunset Provisions of TAARA for petitions filed during that period.³³³ On June 30, 2022, the authorization for the TAA program expired. As a result, the USDOL may not accept any new petitions or requests for reconsideration and may not issue any determinations from July to December 2022.³³⁴

In 2022, \$334 million was allocated to state governments to fund different aspects of the TAA for Workers program. The largest portion, \$224 million, was allocated for Training and Other Activities, which included funds for training, job search allowances, relocation allowances, employment and case management services, and related state administration. The remaining funding was allocated for two other purposes: \$99 million for Trade Readjustment Allowance benefits and \$11 million for Alternative Trade Adjustment Assistance/Reemployment Trade Adjustment Assistance benefits.³³⁵

Groups of workers submitted 306 petitions for TAA in FY 2022, a decline from the 743 petitions filed in FY 2021.³³⁶ One main reason the number of petition filings in FY 2022 is much lower compared to FY 2021 is the discontinuation of processing petitions, starting July 1, 2022.³³⁷ During FY 2022, the USDOL certified 168 petitions, covering 25,099 workers, as eligible to apply for benefits and services under TAA

³²⁹ 19 U.S.C. §§ 2271–2275; USDOL, “TAA Law,” accessed July 12, 2023.

³³⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 211.

³³¹ USDOL, “Trade Adjustment Assistance for Workers,” accessed May 19, 2023.

³³² 19 U.S.C. § 2272.

³³³ TAARA, § 406; 19 U.S.C. § 2271 note; USITC, *The Year in Trade 2021*, August 2022, 90–91. For more information on the major differences between the TAA program operated under the TAARA and the Reversion 2021 program, please see *Year in Trade 2021*.

³³⁴ USDOL, “Trade Adjustment Assistance for Workers,” accessed May 19, 2023.

³³⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 211.

³³⁶ USDOL, ETA, email message to USITC staff, April 24, 2023.

³³⁷ USDOL, ETA, email message to USITC staff, April 24, 2023.

and denied 220 petitions, covering 26,514 workers.³³⁸ The largest number of petitions certified in FY 2022 were from the Midwest region, followed by the South, the West, and the Northeast (table 2.6). By state, Illinois had the most workers certified (2,630), followed by Tennessee (2,580), Indiana (2,555), and Ohio (1,696).

Table 2.6 Trade Adjustment Assistance (TAA) certifications, by region, FY 2022

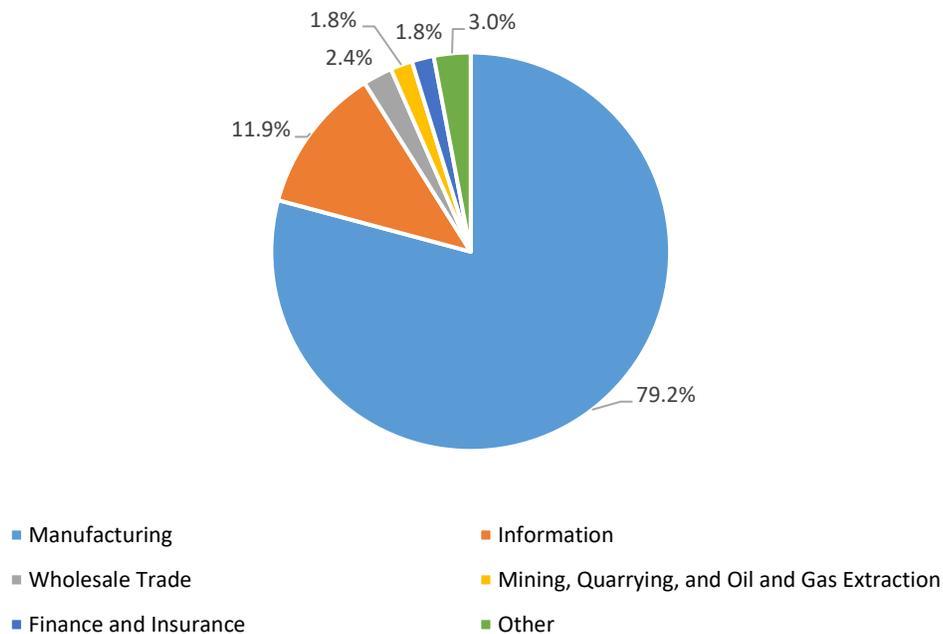
Census region	Number of petitions certified	Number of workers covered
Midwest	57	9,469
South	45	6,976
Northeast	27	3,609
West	38	4,604
Puerto Rico	1	441
Total	168	25,099

Source: USDOL, ETA, email message to USITC staff, April 24, 2023.

The majority (79.2 percent, 133 petitions) of TAA petitions certified during FY 2022 were in the manufacturing sector, covering 23,214 workers, followed by those in the information sector (11.9 percent, 20 petitions) and the wholesale trade sector (2.4 percent, 4 petitions) (figure 2.2).

Figure 2.2 Share of Trade Adjustment Assistance (TAA) petitions certified by USDOL, by industry, FY 2022

“Other” includes all industry sectors where fewer than 3 petitions were certified in FY 2022. Underlying data for this figure can be found in appendix [table A.14](#).



Source: USDOL, ETA, email message to USITC staff, April 24, 2023.

³³⁸ During any fiscal year, the number of petitions filed will not necessarily be the same as the number of certifications issued for a variety of reasons, including (1) the processing time for petitions may overlap fiscal years and (2) petitioners may withdraw a petition after it has been filed, which results in the termination of an investigation. USDOL, ETA, email message to USITC staff, April 24, 2023.

Assistance for Firms

The TAA for Firms program provides assistance to help U.S. firms experiencing a decline in sales and employment to become more competitive in the global marketplace.³³⁹ The program provides cost-sharing technical assistance to help eligible businesses create and implement targeted business recovery plans. The program pays up to 75 percent of the costs of developing the recovery plans, with firms also contributing a share of the cost of creating and implementing their recovery plans.³⁴⁰ The Secretary of Commerce is responsible for administering the TAA for Firms program and has delegated the statutory authority and responsibility to the USDOC's Economic Development Administration (EDA).³⁴¹ Key portions of the statutory authorization of the TAA for Firms program expired on June 30, 2022. Therefore, beginning July 1, 2022, the EDA is no longer able to accept new petitions from firms for certification of eligibility for trade adjustment assistance ("petitions") through the TAA for Firms program.³⁴² Current information on provisions of the TAA for Firms program, as well as detailed information on program eligibility requirements, benefits, and available services, is available at the USDOC's Economic Development Administration website for TAA.³⁴³

In FY 2022, the EDA awarded a total of \$13.5 million in funds to the TAA for Firms program's national network of 11 Trade Adjustment Assistance Centers. During FY 2022, the EDA certified 47 petitions for eligibility and approved 77 adjustment protocols, which are firms' plans to improve their competitiveness.³⁴⁴

Trade Preference Programs

Trade preference programs generally provide duty-free treatment to U.S. imports of eligible articles from designated beneficiary developing countries.³⁴⁵ Total U.S. imports under these trade preference programs increased in value from 2020 to 2022. U.S. imports entered under the African Growth and Opportunity Act (AGOA) and the U.S. Generalized System of Preferences (GSP) had the largest increases in value from 2020 to 2022. The value of U.S. imports under the Caribbean Basin Economic Recovery Act (CBERA) and the Nepal Trade Preference Program (NTPP) was also greater in 2022 compared to 2020 (table 2.7).

Though U.S. imports under the trade preference programs increased from 2020 to 2022, the utilization rate of trade preference programs paints a mixed picture. The utilization rate of trade preference programs increased for the AGOA and CBERA programs by 9.1 percent and 0.1 percent, respectively,

³³⁹ 19 U.S.C. §§ 2341 et seq; USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 211.

³⁴⁰ USITC, *The Year in Trade 2021*, August 2022, 93.

³⁴¹ USDOC, EDA, "Trade Adjustment Assistance for Firms," accessed May 19, 2023.

³⁴² USDOC, EDA, "Trade Adjustment Assistance for Firms," accessed May 19, 2023.

³⁴³ USDOC, EDA, "Trade Adjustment Assistance for Firms," accessed May 19, 2023.

³⁴⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 211.

³⁴⁵ CBERA also allows for reduced duty treatment for items classified under 63 tariff lines. See USITC, *U.S.-Haiti Trade: Impact*, December 2022.

from 2021 to 2022.³⁴⁶ During the same period, the GSP and NTPP programs' utilization rates declined by 5.3 percent and 5.4 percent, respectively (table 2.8).

Table 2.7 Imports for consumption under specified tariff preference programs, 2020–22

In millions of dollars and percentages. AGOA = the African Growth and Opportunity Act; CBERA = Caribbean Basin Economic Recovery Act; CBTPA = Caribbean Basin Trade Partnership; HOPE = Haiti-specific preferences: the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 and of 2008; HELP = the Haiti Economic Lift Program; GSP = the U.S. Generalized System of Preferences; NTPP = the Nepal Trade Preference Program.

Tariff preference program	2020 (million \$)	2021 (million \$)	2022 (million \$)	Percentage change, 2021–22 (%)
Imports that claimed AGOA preferences, excluding GSP	3,240	6,027	9,592	59.2
Imports that claimed GSP preferences, with AGOA eligibility	837	734	719	-2.0
Total imports that claimed AGOA (including GSP) preferences	4,078	6,761	10,312	52.5
Imports that claimed CBERA preferences, including CBTPA and HOPE I/HOPE II/HELP	1,808	2,191	2,671	21.9
Imports that claimed GSP preferences	16,974	18,672	21,464	14.9
Imports that claimed NTPP preferences	2	4	5	15.7

Source: USITC DataWeb/Census, accessed July 5, 2023.

Notes: Because of rounding, figures may not add to totals shown. Rounding may affect percentage changes. GSP data for 2021 [and 2022] refer only to "GSP-claimed" imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–22.

Table 2.8 The utilization rate of specific tariff preference programs, 2020–22

In percentages and percentage points. AGOA = the African Growth and Opportunity Act; CBERA = Caribbean Basin Economic Recovery Act (CBERA), Caribbean Basin Trade Partnership (CBTPA) and Haiti-specific preferences: the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 and of 2008 (HOPE) and the Haiti Economic Lift Program (HELP); GSP = the U.S. Generalized System of Preferences; NTPP = the Nepal Trade Preference Program.

Tariff preference program	2020 (%)	2021 (%)	2022 (%)	Percentage point change, 2021–22
AGOA (excluding GSP)	54.0	55.8	66.7	10.9
Total AGOA (including GSP)	68.0	62.6	71.7	9.1
CBERA, including CBTPA and HOPE I/HOPE II/HELP	72.8	48.7	48.7	0.1
GSP	84.7	64.0	58.7	-5.3
NTPP	52.5	47.9	42.5	-5.4

Source: USITC DataWeb/Census, accessed July 5, 2023.

Notes: The utilization rate is measured by imports that claimed preference under a specific program divided by imports eligible for preferential treatment based on the program and beneficiary requirements. Percentages reflect the total imports for consumption under the specified program as a share of imports for consumption of products classified under eligible *Harmonized Tariff Schedule of the United States* (HTS) 8-digit subheadings from program-eligible countries. GSP data for 2021 [and 2022] refer only to "GSP-claimed" imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–22.

³⁴⁶ The preference program utilization rate is calculated by dividing U.S. imports that claimed preferences under that program (i.e., received duty elimination or reduction) by imports of the universe of products that were covered by that program. The universe of products covered by the program comprises the products (HTS classifications) that are eligible for program preferences.

Generalized System of Preferences

Background

The GSP program authorizes the President to provide duty-free treatment for eligible articles from a beneficiary developing country in accordance with certain provisions of law. The President's authority to provide duty-free treatment is renewed by Congress for specific periods of time. The President's most recent authority lapsed on January 1, 2021, a lapse that continued through year-end 2022, becoming the longest lapse in program history.³⁴⁷ Before the lapse in authorization, designated beneficiary developing countries (BDCs) and territories were eligible for duty-free access for products classified under about 3,600 HTS subheadings and countries designated as least-developed beneficiary developing countries (LDBDCs) were eligible for duty-free access for products classified under an additional 1,500 HTS subheadings.³⁴⁸

The GSP program aims to accelerate economic growth by offering eligible exports from BDCs to enter the United States duty free. An underlying principle of the program is that the creation of trade opportunities for developing countries encourages broader-based economic development and sustains momentum for economic reform and liberalization. The program's eligibility criteria, among others, for all beneficiary countries include taking steps to respect internationally recognized worker rights, providing the United States with equitable and reasonable market access, reducing trade-distorting investment practices, and providing adequate and effective protection of intellectual property rights to U.S. rights holders.³⁴⁹ As of December 31, 2022, 119 countries and territories were designated GSP BDCs, 44 of which are designated LDBDCs.

The President has the authority to designate countries and territories as BDCs under the GSP program with certain limitations described in the statute. The President must terminate a BDC's eligibility status if it becomes a high-income country, as defined by the World Bank.³⁵⁰ A country can also lose all or part of its GSP eligibility following findings of country practices that violate the provisions of the GSP statute.³⁵¹ Complaints about such violations (country practice allegations) were traditionally brought to the attention of the interagency GSP subcommittee by a petition process. In recent years, the GSP subcommittee has initiated assessments of BDCs as well.³⁵² As of December 31, 2022, seven country practice reviews were ongoing.³⁵³

³⁴⁷ 19 U.S.C. § 2465; Pub. L. No 115-141, Division M, Title V, § 501, 132 Stat. 348, 1050 (2018) (extending GSP to December 31, 2020).

³⁴⁸ USITC, "The 2022 HTS Item Count," March 1, 2022.

³⁴⁹ 19 U.S.C. § 2462(b) & (c).

³⁵⁰ 19 U.S.C. § 2462(e).

³⁵¹ 19 U.S.C. § 2463(d).

³⁵² 19 C.F.R. § 2007.0 et seq. (procedures for parties requesting GSP review).

³⁵³ "As a result of the lapse of the GSP program's authorization on December 31, 2020, USTR did not open or close any reviews of designated GSP beneficiary countries' eligibility or hold public hearings on existing reviews in 2022. As of December 31, 2022, seven reviews were pending, including reviews of Indonesia and South Africa on intellectual property (IP) protection and IP enforcement; a review of Ecuador on enforcement of arbitral awards; and reviews of Azerbaijan, Eritrea, Kazakhstan, and Zimbabwe on worker rights." USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 153.

The President also has the authority to designate the articles that are eligible for duty-free treatment, but only after receiving advice from the Commission.³⁵⁴ The President cannot designate any articles that are “import sensitive.” The statute designates certain goods (e.g., most footwear, textiles, and apparel) as “import sensitive” and thus not eligible for duty-free treatment under the GSP program.³⁵⁵ Under GSP, products imported from BDCs (which are not also LDBDCs) are subject to quantitative ceilings on GSP benefits called competitive need limitations and may lose duty-free access for imports that exceed competitive need limitations.³⁵⁶

Developments in 2022

U.S. Imports under GSP

As noted above, the President’s authority to grant duty-free treatment lapsed in 2021. Therefore, no imports received duty-free treatment under the program during either 2021 or 2022. In previous periods when GSP authorization has lapsed, legislation renewing the President’s authority has allowed importers of eligible goods to apply for a refund of duties paid while the program had lapsed.³⁵⁷ U.S. imports that claimed GSP preferences rose by about 15 percent in 2022, relative to 2021 (table 2.9). U.S. imports that claimed GSP preferences accounted for 8.5 percent of all imports from all GSP-eligible BDCs, down from 9.3 percent in 2021 (table 2.10). The five GSP beneficiaries with the largest value of imports that claimed GSP preferences in 2022 were, in descending order, Indonesia, Cambodia, Thailand, Brazil, and the Philippines. The five LDBDC GSP beneficiaries with the largest volume of imports that claimed GSP preferences were Cambodia, Burma, Ethiopia, Angola, and Nepal. Cambodia has steadily risen as a source of imports that claimed GSP preferences, surpassing Brazil in 2021 and Thailand in 2022. Thailand’s position fell from the largest source in 2020 to the third-largest source in 2022. Thailand lost part of its GSP eligibility as a result of two country practices reviews in 2020.³⁵⁸

Table 2.9 U.S. imports for consumption from GSP beneficiaries, 2020–22

In millions of dollars and percentages. GSP = the U.S. Generalized System of Preferences; LDBDCs = least-developed beneficiary developing countries.

Duty or preference program status	2020 (million \$)	2021 (million \$)	2022 (million \$)	Percentage change, 2021–22 (%)
GSP imports from LDBDCs	100	154	250	62.4
GSP imports from non-LDBDCs	16,874	18,519	21,214	14.6
Total GSP imports	16,974	18,672	21,464	14.9
All other imports, duty-free	84,836	111,667	133,179	19.3
All other imports, dutiable	50,086	71,479	97,593	36.5
All other imports	134,923	183,146	230,772	26.0
Total imports from GSP beneficiaries	151,897	201,818	252,236	25.0

Source: USITC DataWeb/Census, accessed July 5, 2023.

³⁵⁴ 19 U.S.C. § 2463.

³⁵⁵ 19 U.S.C. § 2463(b).

³⁵⁶ 19 U.S.C. § 2463(c); USTR, *GSP Guidebook*, November 2020, 9–10.

³⁵⁷ See, e.g., Title II of Pub. L. No 114-27, § 201(b)(2), 129 Stat. 362, 371 (2015) (providing retroactive application of duty-free entry for eligible products).

³⁵⁸ USTR, “Current Reviews,” December 2020. One review concerns market access and the other review concerns worker rights within Thailand.

Note: GSP-eligible products from LDBDCs are those for which the rate of duty of “free” appears in the special rate column of the HTS, followed by the symbol “A+” in parentheses. The symbol “A+” indicates that all LDBDCs (and only LDBDCs) are eligible for duty-free treatment with respect to all articles listed in the designated provisions. Non-LDBDC-eligible products are those for which a rate of duty of “free” appears in the special rate column of the HTS, followed by the symbols “A” or “A*” in parentheses. The symbol “A” indicates that all beneficiary countries are eligible for duty-free treatment with respect to all articles listed in the designated provisions. The symbol “A*” indicates that certain beneficiary countries (specified in general note 4(d) of the HTS) are not eligible for duty-free treatment with respect to any article listed in the designated provision. Not all products are eligible for GSP. Because of rounding, figures may not add to totals shown. GSP data for 2021 [and 2022] refer only to “GSP-claimed” imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–22.

Table 2.10 Share of U.S. imports for consumption from GSP beneficiaries, 2020–22

GSP data for 2021 [and 2022] refer only to “GSP-claimed” imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–22. In percentages and percentage points (ppts). GSP = the U.S. Generalized System of Preferences; LDBDCs = least-developed beneficiary developing countries; — (em dash) = not applicable.

Duty or preference program status	2020 (%)	2021 (%)	2022 (%)	Percentage point change, 2021–22
GSP imports from LDBDCs	0.1	0.1	0.1	0.0
GSP imports from non-LDBDCs	11.1	9.2	8.4	-0.8
Total GSP imports	11.2	9.3	8.5	-0.7
All other imports, duty-free	55.9	55.3	52.8	-2.5
All other imports, dutiable	33.0	35.4	38.7	3.3
All other imports	88.8	90.7	91.5	0.7
Total imports from GSP beneficiaries	100.0	100.0	100.0	—

Source: USITC DataWeb/Census, accessed July 5, 2023.

In 2022, the top imports that claimed GSP preferences as classified by HTS 6-digit subheading were travel and sports bags (HTS subheading 4202.92), handbags (HTS subheading 4202.22), and precious metal jewelry (HTS subheading 7113.19). Of the top five imports claiming GSP program preferences, four were travel goods of chapter 42. Imports of rubber gloves (HTS subheading 4015.19), which rose substantially in 2020 and 2021 and were one of the top three imports in 2021, fell by 54.7 percent in 2022, ranking 11th.

GSP Developments in 2022

Due to the lapse in the President’s authority, the GSP Subcommittee of the Trade Policy Staff Committee (GSP Subcommittee) took no actions during 2022.³⁵⁹ The GSP Subcommittee, chaired by USTR, is composed of representatives of other executive branch agencies, and, when authorized, conducts an annual review that considers changes to the lists of articles and countries eligible for duty-free treatment under GSP.³⁶⁰ Members of Congress introduced several bills to reauthorize the program in the 117th Congress; none of those bills became a law.

³⁵⁹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 76.

³⁶⁰ 19 U.S.C. § 1872; Exec. Order No. 11846, 40 Fed. Reg. 14291 (March 31, 1975); 15 C.F.R. Pt. 2007 (procedures for GSP reviews).

Nepal Trade Preference Program

The Nepal Trade Preferences Act (NTPA) came into effect on March 25, 2016, and is currently set to expire on December 31, 2025.³⁶¹ The NTPA authorizes the President, if the President determines that Nepal meets certain requirements set forth in the NTPA, to provide preferential treatment to articles imported directly from Nepal to the United States. In addition to the requirements set forth in the NTPA, the NTPA also requires the President to determine that Nepal meets the requirements of AGOA and the requirements in GSP statutes.³⁶²

The NTPA authorizes the Nepal Trade Preference Program (NTPP). The NTPP gave Nepal duty-free access to the U.S. market for certain goods, including certain luggage and flat goods classified in HTS chapter 42, certain carpets and floor coverings in chapter 57, certain apparel in chapters 61 and 62, two non-apparel made-up textile articles in chapter 63, and various headwear items in chapter 65.³⁶³ As of December 31, 2022, Nepal was eligible for duty-free treatment on 77 HTS 8-digit subheadings under the NTPP, 31 of which are also duty free under GSP.³⁶⁴

In 2022, U.S. imports from Nepal totaled about \$132.6 million, imports from Nepal claiming GSP were about \$12.7 million, and imports under the NTPP were about \$4.7 million (table 2.11). Imports under NTPP and GSP made up a combined 13.1 percent of total imports from Nepal in 2022, which declined from 20.5 percent of total imports from Nepal in 2021 (table 2.12).

Table 2.11 U.S. imports for consumption from Nepal, 2020–22

In thousands of dollars and percentages. NTPP = Nepal Trade Preference Program; GSP = the U.S. Generalized System of Preferences. GSP data for 2021 and 2022 refer only to “GSP-claimed” imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–2022.

Preference program	2020 (thousand \$)	2021 (thousand \$)	2022 (thousand \$)	Percentage change 2021–22 (%)
Imports that claimed NTPP preferences	2,500	4,070	4,710	15.7
Imports that claimed GSP preferences	10,089	18,049	12,665	-29.8
Total imports that claimed NTPP or GSP preferences	12,589	22,118	17,375	-21.4
All other imports, duty-free	57,635	65,657	88,139	34.2
All other imports, dutiable	16,120	19,940	27,083	35.8
All other imports	73,755	85,597	115,222	34.6
Total imports from Nepal	86,344	107,715	132,597	23.1

Source: USITC DataWeb/Census, accessed July 5, 2023.

Note: Nepal Trade Preference Program (NTPP)-eligible products are those for which a rate of duty of “free” appears in the special rate column of the HTS, followed by the symbol “NP” in parentheses. The symbol “NP” indicates that Nepal is eligible for duty-free treatment with respect to all articles listed in the designated provisions. Includes imports for which preferential tariff treatment was claimed for NTPP eligible goods by U.S. importers under GSP, for HTS rate lines with special duty symbols “A,” “A*,” or “A+.” Because of rounding, figures may not add up to totals shown.

³⁶¹ 19 U.S.C. § 4454(f)–(g). Amendments to the HTS providing for duty-free treatment under NTPP applied to imports from Nepal entered for consumption on or after December 30, 2016. Proclamation No. 9555, 81 Fed. Reg. 92499 (December 20, 2016).

³⁶² 19 U.S.C. § 4454(b)(1).

³⁶³ 19 U.S.C. § 4454(c)(2)(A)(iii).

³⁶⁴ USITC, 2023 HTS, Revision 10, July 2023.

Table 2.12 Share of U.S. imports for consumption from Nepal, 2020–22

In percentages and percentage points. NTPP = Nepal Trade Preference Program; GSP = the U.S. Generalized System of Preferences; — (em dash) = not applicable. GSP data for 2021 and 2022 refer only to “GSP-claimed” imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–22.

Preference program	2020 (%)	2021 (%)	2022 (%)	Percentage point change 2021–22
Imports that claimed NTPP preferences	2.9	3.8	3.6	-0.2
Imports that claimed GSP preferences	11.7	16.8	9.6	-7.2
Total Imports that claimed NTPP or GSP preferences	14.6	20.5	13.1	-7.4
All other imports, duty-free	66.7	61.0	66.5	5.5
All other imports, dutiable	18.7	18.5	20.4	1.9
All other imports	85.4	79.5	86.9	7.4
Total imports from Nepal	100.0	100.0	100.0	—

Source: USITC DataWeb/Census, accessed July 5, 2023.

Note: Because of rounding, figures may not add up to totals shown.

African Growth and Opportunity Act

Enacted in 2000, AGOA provides for tariff preferences to products from eligible sub-Saharan African (SSA) countries.³⁶⁵ In particular, AGOA provides duty-free access to the U.S. market for all GSP-eligible products, and for more than 1,800 additional qualifying products classified under HTS 8-digit subheadings that are eligible under AGOA only.³⁶⁶ AGOA’s eligibility criteria and rules of origin are similar, but not identical, to those of the GSP program.³⁶⁷ AGOA beneficiary countries are also exempt from GSP competitive need limitations.³⁶⁸ AGOA also provides duty-free treatment for certain apparel articles cut and sewn in designated beneficiary countries if additional eligibility criteria are also satisfied.³⁶⁹ The current AGOA expiration date is September 30, 2025.³⁷⁰

Each year, the President must consider whether individual SSA countries are, or remain, eligible for AGOA benefits.³⁷¹ USTR initiates the annual eligibility review with the publication of a notice in the *Federal Register* requesting comments and announcing a public hearing. The statute was amended in 2012 to include the newly independent country of South Sudan, raising to 49 the number of countries

³⁶⁵ 19 U.S.C. §§ 3701–3702 (Congress’s findings and policy in creating AGOA).

³⁶⁶ 19 U.S.C. §§ 2466a(b), 2466B, and 3722(a).

³⁶⁷ Compare 19 U.S.C. § 3703 (AGO A eligibility criteria) with and 19 U.S.C. § 2463 (GSP eligibility criteria). Countries must be GSP eligible as well as AGOA eligible to receive AGOA’s trade benefits. The (non-apparel) rules of origin under AGOA are set forth at 19 U.S.C. § 2466a(b)(2) and are reflected in HTS general notes 4 and 16; USITC, 2023 HTS, Revision 10, July 2023, General Note 4, Products of Countries Designated Beneficiary Developing Countries for Purposes of the Generalized System of Preferences (GSP), GN 11; USITC, 2023 HTS, Revision 10, July 2023, General Note 16, Products of Countries Designated as Beneficiary Countries under the African Growth and Opportunity Act (AGO A), GN 164.

³⁶⁸ 19 U.S.C. § 2463(c)(2)(D).

³⁶⁹ 19 U.S.C. §§ 3721–3722. See HTS chapter 98, subchapter XIX, for applicable provisions.

³⁷⁰ See 19 U.S.C. §§ 2466b & 3721. AGOA beneficiary countries receive GSP trade preferences tied to AGOA authorization dates and thus may continue to receive duty-free treatment for GSP products even when GSP authorization has lapsed for other countries. 19 U.S.C. § 2466b.

³⁷¹ 19 U.S.C. §§ 2466a(a)(2) & 3705 note.

defined as part of the SSA region for purposes of AGOA.³⁷² In 2022, 36 SSA countries were eligible for AGOA benefits.³⁷³ Of these countries, 24 were eligible for AGOA textile and apparel benefits for all or part of 2022.³⁷⁴ Of the countries in the latter group, all but one (South Africa) were also eligible for additional textile and apparel benefits intended for least-developed beneficiary countries (LDBCs) for all or part of 2022.³⁷⁵ Notable among these extra benefits is the third-country fabric provision for LDBCs. This provision provides duty-free treatment for certain apparel articles cut and sewn in designated beneficiary countries from non-U.S., non-AGOA fabrics as long as additional eligibility criteria are satisfied.³⁷⁶ As a result of the 2022 annual AGOA eligibility review, eligibility was terminated for Burkina Faso, effective January 1, 2023.³⁷⁷ Therefore, 35 SSA countries are eligible for AGOA benefits in 2023.³⁷⁸

In 2022, the value of U.S. imports that claimed AGOA preferences (including imports that are AGOA-eligible but entered under GSP) was \$10.3 billion, a 52.5 percent increase from 2021. These imports comprised 34.4 percent of total imports from AGOA countries in 2022. In 2022, imports entering the United States exclusively under AGOA (excluding those entered under GSP) were valued at \$9.6 billion, accounting for 32.0 percent of U.S. imports from AGOA countries (tables 2.13 and 2.14).

³⁷² 19 U.S.C. § 3706; Equatorial Guinea and Seychelles are not AGOA program eligible because they are no longer GSP BDCs. Two other countries, Somalia and Sudan, are not AGOA program eligible because they have never requested to join AGOA. USITC, *African Growth and Opportunity Act (AGOA): Program Usage, Trends, and Sectoral Highlights*, 37–38.

³⁷³ The 36 countries eligible for AGOA benefits were Angola, Benin, Botswana, Burkina Faso, Cabo Verde, Central African Republic, Chad, Comoros, Côte d’Ivoire, Democratic Republic of the Congo, Djibouti, Eswatini, Gabon, The Gambia, Ghana, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Niger, Nigeria, Republic of the Congo, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, and Zambia. In 2021, 39 SSA countries were eligible. As a result of the 2021 annual AGOA eligibility review, eligibility was terminated for Ethiopia, Guinea, and Mali, effective January 1, 2022. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 76; USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 130.

³⁷⁴ The 24 countries eligible for AGOA textile and apparel benefits were Benin, Botswana, Burkina Faso, Cabo Verde, Chad, Côte d’Ivoire, Eswatini, Ghana, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, and Zambia. USDOC, ITA, OTEXA, “AGOA Preferences: Country Eligibility, Apparel Eligibility, and Textile Eligibility,” accessed July 26, 2023.

³⁷⁵ USDOC, ITA, OTEXA, “AGOA Preferences: Country Eligibility, Apparel Eligibility, and Textile Eligibility,” accessed July 26, 2023.

³⁷⁶ Chapter 98, subchapter XIX, U.S. note 2(a) through 2(e); USITC, *2022 HTS, Revision 12*, December 2022.

³⁷⁷ Burkina Faso’s AGOA eligibility was terminated as a result of the unconstitutional change in government. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 153.

³⁷⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 72.

Table 2.13 U.S. imports for consumption from AGOA beneficiaries, 2020–22

In millions of dollars and percentages. AGOA = African Growth and Opportunity Act; GSP = the U.S. Generalized System of Preferences.

Duty or preference program status	2020 (million \$)	2021 (million \$)	2022 (million \$)	Percentage change, 2021–22 (%)
Imports that claimed AGOA preferences, excluding GSP	3,240	6,027	9,592	59.2
Imports that are AGOA-eligible but claimed GSP preferences	904	737	722	-1.9
Total AGOA imports	4,144	6,763	10,315	52.5
All other imports, duty-free	12,233	16,423	15,343	-6.6
All other imports, dutiable	2,024	4,169	4,365	4.7
All other imports	14,258	20,592	19,708	-4.3
Total imports from AGOA countries	18,402	27,356	30,023	9.7

Source: USITC DataWeb/Census, accessed July 5, 2023.

Notes: Eligible products under AGOA are those for which a rate of duty of “free” appears in the special rate column of the HTS, followed by the symbol “D” in parentheses. The symbol “D” indicates that all AGOA beneficiaries are eligible for duty-free treatment with respect to all articles listed in the designated provisions. In addition, provisions of subchapters II and XIX of chapter 98 of the HTS set forth specific categories of AGOA-eligible products, under the terms of separate country designations enumerated in subchapter notes. Includes imports for which preferential tariff treatment was claimed for AGOA-eligible goods by U.S. importers under GSP, for HTS rate lines with special duty symbols “A,” “A*” (unless the AGOA beneficiary country is excluded), or “A+.” GSP data for 2021 [and 2022] refer only to “GSP-claimed” imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–22.

Table 2.14 Share of U.S. imports for consumption from AGOA beneficiaries, 2020–22

In percentages and percentage points. AGOA = African Growth and Opportunity Act; GSP = the U.S. Generalized System of Preferences.

Duty or preference program status	2020 (%)	2021 (%)	2022 (%)	Percentage point change, 2021–22
Imports that claimed AGOA preferences, excluding GSP	17.6	22.0	32.0	9.9
Imports that are AGOA-eligible but claimed GSP preferences	4.9	2.7	2.4	-0.3
Total AGOA imports	22.5	24.7	34.4	9.6
All other imports, duty-free	66.5	60.0	51.1	-8.9
All other imports, dutiable	11.0	15.2	14.5	-0.7
All other imports	77.5	75.3	65.6	-9.6
Total imports from AGOA countries	100.0	100.0	100.0	—

Source: USITC DataWeb/Census, accessed July 5, 2023. GSP data for 2021 [and 2022] refer only to “GSP-claimed” imports, which have not yet received duty-free treatment, given the lapse in authorization for the entirety of 2021–22.

The increase in U.S. imports under AGOA (excluding GSP) in 2022 compared to 2021 mainly reflected an increase in the value of imports of crude petroleum, as well as an increase in imports of certain passenger vehicles.³⁷⁹ From 2021 to 2022, the value of U.S. crude petroleum imports under AGOA increased by 152.5 percent (\$2.7 billion) and the value of U.S. imports of these passenger vehicles under AGOA increased by 96.1 percent (\$724 million). U.S. imports of such passenger vehicles under AGOA (excluding GSP) in 2022 came entirely from South Africa.³⁸⁰ The growth strategies of South African automotive industry have largely focused on becoming highly integrated into the global automotive

³⁷⁹ Crude petroleum refers to products classified under HS subheading 2709.00, and passenger motor vehicles refers to products classified under HS subheading 8703.23.

³⁸⁰ USITC DataWeb/Census, accessed August 8, 2023.

environment through increasing foreign direct investment and trade.³⁸¹ As the South African automotive industry recovers from the impact of the COVID-19 pandemic, the increase in domestic production of certain varieties of passenger vehicles in 2022 likely has contributed to the increase in U.S. imports of these vehicles from South Africa.³⁸² In the meantime, rising global crude petroleum prices in 2022 compared to 2021, as well as an increase in the volume of crude petroleum imports claiming AGOA preferences, have contributed to the increasing value of U.S. crude petroleum imports under AGOA.³⁸³

The major suppliers of duty-free U.S. imports under AGOA (excluding GSP) in 2022 were Nigeria (36.2 percent of total AGOA imports), South Africa (32.0 percent), Ghana (7.7 percent), Kenya (6.4 percent), Madagascar (4.2 percent), and Angola (3.6 percent). These six countries contributed 90.1 percent of total imports by value under AGOA in 2022 ([interactive dashboard](#)).

AGOA also requires that the President convene the annual U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum (also known as the AGOA Forum) to discuss trade, investment, and development at an annual ministerial-level meeting with AGOA beneficiary countries.³⁸⁴ On December 13, 2022, the U.S. Trade Representative hosted trade ministers from SSA countries for the AGOA Ministerial Meeting during the U.S.-Africa Leaders' Summit. This ministerial meeting was held in place of the AGOA Forum.³⁸⁵ During the meeting, USTR discussed core issues affecting the U.S.-African trade relationship with its SSA counterparts, as well as how to work together to improve the utilization rates and the implementation of the AGOA program, and ways to ensure that the program benefits all segments of society.³⁸⁶ Participants from the United States included senior government officials and members of Congress and those from Africa included trade ministers from AGOA-eligible countries as well as representatives from Regional Economic Communities and other Africa-based organizations.³⁸⁷

Caribbean Basin Economic Recovery Act

The 1983 Caribbean Basin Economic Recovery Act (CBERA) authorizes the President to grant certain unilateral preferential tariff benefits to Caribbean Basin countries.³⁸⁸ These benefits have been

³⁸¹ USDOC, ITA, "South Africa—Country Commercial Guide: Automotive," May 6, 2023.

³⁸² Davies and Vincent, *The Impact of COVID-19 on the South African Automotive Sector*, April 2020; TopAuto, "South Africa's Top Car Exports," August 11, 2022. Note that of the top vehicles exported from South Africa listed in this source, only two of them (Mercedes C-class and BMW X3) are sold in the United States and could be classified in HS subheading 8703.23. The other seven are all pickup trucks of HS subheading 8704, smaller cars, or vehicles not sold in the United States.

³⁸³ USDOE, EIA, "Crude Oil Prices Increased . . . and Declined in . . . 2022," January 4, 2023.

³⁸⁴ 19 U.S.C. § 3704.

³⁸⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 77.

³⁸⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 77.

³⁸⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 77.

³⁸⁸ 19 U.S.C. § 2701. The 17 CBERA beneficiaries in 2022 were Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, Curaçao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago, and the British Virgin Islands. USITC, *2022 HTS, Revision 12*, December 2022, General Note 7(a), Products of Countries Designated as Beneficiary Countries under the Caribbean Basin Economic Recovery Act (CBERA), GN 19.

enhanced and expanded over time and are intended to promote economic growth and development through increased exports of nontraditional products.³⁸⁹

The Caribbean Basin Trade Partnership Act (CBTPA) amended CBERA in 2000, expanding preferential treatment to several products previously excluded from CBERA, notably certain apparel, for CBERA beneficiaries that meet additional eligibility requirements.³⁹⁰ Altogether, CBERA provides duty-free access for 5,674 qualifying HTS 8-digit tariff lines and an additional 259 non-apparel tariff lines under CBTPA.³⁹¹ Although the 1983 CBERA trade preferences have no expiration date, the preferential tariff benefits granted under CBTPA are set to expire on September 30, 2030.³⁹²

Imports from 17 countries and territories were eligible for CBERA preferences during 2021 (“CBERA beneficiaries”), 8 of which were also eligible for CBTPA preferences.³⁹³ Further countries are potentially eligible for designation but have not been designated CBERA beneficiaries.³⁹⁴

In 2022, the total value of U.S. imports from CBERA beneficiaries increased 30.9 percent to nearly \$12.3 billion, and the value of U.S. imports entered under CBERA preferences increased 21.9 percent to \$2.7 billion (table 2.15). Both the 2022 total value of imports from CBERA beneficiaries and the 2022 value of U.S. imports entered under CBERA were greater than pre-COVID-19 pandemic levels. The top five imports under CBERA in 2022—crude petroleum (HS subheading 2709.00), methanol (HS subheading 2905.11), cotton T-shirts (HS subheading 6109.10), polystyrene (HS subheading 2933.11), and melamine (HS subheading 2933.61)—comprised 82.5 percent of imports under CBERA (including CBTPA).³⁹⁵ In 2022, crude petroleum imports rose 122.9 percent to \$907 million and methanol imports declined 20.2 percent to \$377 million ([interactive dashboard](#)).³⁹⁶

³⁸⁹ 19 U.S.C. § 2702 notes. For a detailed description see USITC, *Caribbean Basin Economic Recovery Act, 26th Report*, September 2023, 15.

³⁹⁰ 19 U.S.C. § 2703. CBTPA also provides that imports from beneficiaries receive equivalent treatment to goods under USMCA. 19 U.S.C. § 2703(b)(3)(A).

³⁹¹ USITC, *Caribbean Basin Economic Recovery Act, 26th Report*, September 2023, 30.

³⁹² 19 U.S.C. § 2701. CBTPA provisions were most recently renewed on October 10, 2020. Extension of the Caribbean Basin Economic Recovery Act, Pub. L. No. 116-164, § 2, 134 Stat. 758 (2020).

³⁹³ The CBTPA beneficiaries in 2022 were Barbados, Belize, Curaçao, Guyana, Haiti, Jamaica, Saint Lucia, and Trinidad and Tobago. See USITC, *2022 HTS, Revision 12*, December 2022, General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000, GN 187, and U.S. notes in HTS subchapters II and XX of chapter 98. Although the list of eligible countries is currently the same in both the general note and in chapter 98, countries can be added to the general note list, dealing with non-apparel goods, without qualifying for the apparel articles benefits of chapter 98.

³⁹⁴ Additional CBERA countries and territories that are eligible for designation as CBERA beneficiaries—but are not yet designated—are Anguilla, the Cayman Islands, Sint Maarten, Suriname, and the Turks and Caicos Islands. USITC, *Caribbean Basin Economic Recovery Act, 26th Report*, September 2023, 32.

³⁹⁵ USITC DataWeb/Census, accessed July 5, 2023. Note that total imports does not include imports under Haiti HOPE/HELP Act.

³⁹⁶ USITC DataWeb/Census, accessed July 5, 2023.

Table 2.15 U.S. imports from CBTPA/CBERA beneficiaries, by duty preference status and by period

In millions of dollars and percentages. CBERA = the Caribbean Basin Economic Recovery Act; CBTPA = the Caribbean Basin Trade Partnership; HOPE = the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 and of 2008.

Duty or preference program status	2020 (million \$)	2021 (million \$)	2022 (million \$)	Percentage change, 2021–22 (%)
Imports that claimed CBERA preferences, excluding CBTPA	513	776	753	-2.9
Imports that claimed CBTPA preferences	722	665	1,178	77.2
Imports that claimed Haiti HOPE I/HOPE II/HELP Act preferences	573	750	740	-1.3
Total Imports that claimed CBERA, CBTPA, and HOPE I/HOPE II/HELP preferences	1,808	2,191	2,671	21.9
All other imports, duty-free	3,282	5,119	5,770	12.7
All other imports, dutiable	572	2,119	3,902	84.2
All other imports	3,855	7,237	9,672	33.6
Total imports from CBTPA/CBERA beneficiaries	5,663	9,428	12,343	30.9

Source: USITC DataWeb/Census, accessed July 5, 2023.

Notes: CBTPA-eligible products are those for which a special duty rate appears in the special rate column of the HTS, followed by the symbol “R” in parentheses. The symbol “R” indicates that all CBTPA beneficiary countries are eligible for special duty-rate treatment with respect to all articles listed in the designated provisions. In addition, subchapters II and XX of chapter 98 set forth provisions covering specific products eligible for duty-free entry, under separate country designations enumerated in those subchapters (and including former CBTPA beneficiaries El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, and Panama). CBERA (excluding CBTPA)-eligible products are those for which a special duty rate appears in the special rate column of the HTS, followed by the symbols “E” or “E*” in parentheses. The symbol “E” indicates that all beneficiary countries are eligible for special duty rate treatment with respect to all articles listed in the designated provisions. The symbol “E*” indicates that certain articles, under general note 7(d) of the HTS, are not eligible for special duty treatment with respect to any article listed in the designated provision.

U.S. imports that claimed CBERA preferences (including CBTPA and Haiti HOPE I/HOPE II/HELP Act) accounted for 21.6 percent of all U.S. imports from CBERA beneficiaries in 2022, falling from 23.2 percent in 2021 (table 2.16). Trinidad and Tobago, Guyana, and Haiti were the top three suppliers of U.S. imports under CBERA in 2022, making up 45.7 percent, 27.6 percent, and 13.1 percent of total U.S. imports under CBERA, respectively ([interactive dashboard](#)).³⁹⁷ Imports from Haiti under the program consist primarily of apparel, while Trinidad and Tobago is a significant exporter of crude petroleum and methanol. With the discovery of oil in Guyana in 2015, Guyana has become a significant exporter of crude and refined petroleum in the region.³⁹⁸ Jamaica and The Bahamas, combined, contributed 11.1 percent of total imports from CBERA beneficiaries in 2022, supplying agricultural products and polystyrene under CBERA preferences ([interactive dashboard](#)).

³⁹⁷ USITC DataWeb/Census, accessed July 5, 2023.

³⁹⁸ USITC, *Caribbean Basin Economic Recovery Act, 26th Report*, September 2023, 102.

Table 2.16 Share of U.S. imports for consumption from CBERA/CBTPA beneficiaries, 2020–22

In percentages and percentage points. CBERA = the Caribbean Basin Economic Recovery Act; CBTPA = the Caribbean Basin Trade Partnership; HOPE = the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 and of 2008; — (em dash) = not applicable.

Duty or preference program status	2020	2021	2022	Percentage point change, 2021–22
Imports that claimed CBERA preferences, excluding CBTPA	9.1	8.2	6.1	-2.1
Imports that claimed CBTPA preferences	12.7	7.1	9.5	2.5
Imports that claimed Haiti HOPE I/HOPE II/HELP Act preferences	10.1	8.0	6.0	-2.0
Total Imports that claimed CBERA, including CBTPA and Haiti HOPE I/HOPE II/HELP Act preferences	31.9	23.2	21.6	-1.6
All other imports, duty-free	58.0	54.3	46.7	-7.5
All other imports, dutiable	10.1	22.5	31.6	9.1
All other imports	68.1	76.8	78.4	1.6
Total imports from CBTPA/CBERA beneficiaries	100.0	100.0	100.0	—

Source: USITC DataWeb/Census, accessed July 5, 2023.

Notes: CBTPA-eligible products are those for which a special duty rate appears in the special rate column of the HTS, followed by the symbol “R” in parentheses. The symbol “R” indicates that all CBTPA beneficiary countries are eligible for special duty-rate treatment with respect to all articles listed in the designated provisions. In addition, subchapters II and XX of chapter 98 set forth provisions covering specific products eligible for duty-free entry, under separate country designations enumerated in those subchapters (and including former CBTPA beneficiaries El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, and Panama). CBERA (excluding CBTPA)-eligible products are those for which a special duty rate appears in the special rate column of the HTS, followed by the symbols “E” or “E*” in parentheses. The symbol “E” indicates that all beneficiary countries are eligible for special duty rate treatment with respect to all articles listed in the designated provisions. The symbol “E*” indicates that certain articles, under general note 7(d) of the HTS, are not eligible for special duty treatment with respect to any article listed in the designated provision.

Haiti Initiative

Since 2006, three amendments to CBERA expanded the duty-free benefits available to Haiti.³⁹⁹ For apparel, these benefits give Haitian producers more flexibility in sourcing yarns and fabrics beyond the preferences available under CBTPA, under which apparel must be made exclusively from U.S. yarns or fabrics of U.S. yarns.⁴⁰⁰ The Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE I) and of 2008 (HOPE II) (collectively referred to as the HOPE Acts) expanded the rules of origin for apparel by permitting the limited use of materials of any origin.⁴⁰¹

Following a major earthquake in January 2010, the Haitian Economic Lift Program of 2010 (HELP Act) amended CBERA a third time and further enhanced benefits provided in the HOPE Acts.⁴⁰² The HOPE/HELP Acts expanded preferential treatment of imports of certain apparel and textile items, at the same time implementing eligibility requirements for Haiti. HOPE II requires that Haiti establish, in

³⁹⁹ These amendments to CBERA were made in 2006, 2008, and 2010.

⁴⁰⁰ USITC, *U.S.-Haiti Trade: Impact*, December 2022, 49.

⁴⁰¹ Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006, Title V of Pub. L. No. 109-432, §§ 5001–06, 120 Stat. 3181–90. Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008, Pub. L. No. 110-246, §§ 15401–12, 122 Stat. 2289–2309 (codified at 19 U.S.C. § 2703a). For description of provisions, see USITC, *U.S.-Haiti Trade: Impact*, December 2022, 49–54.

⁴⁰² Pub. L. No. 111-171, § 2, 124 Stat. 1194 (2010). For description see USITC, *Caribbean Basin Economic Recovery Act, 26th Report*, September 2023, 44.

cooperation with the International Labour Organization, a labor-related capacity-building and monitoring program in the apparel sector, known as the Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program.⁴⁰³ In addition, to remain eligible for preferential treatment under the HOPE Acts, Haiti is required to make progress toward “establishing the protection of internationally recognized worker rights” through establishing a Labor Ombudsperson’s Office, requiring producers desiring preferential treatment to participate in the TAICNAR program and establishing a producer registry.⁴⁰⁴ HOPE/HELP Acts preferences expire on September 30, 2025.⁴⁰⁵

In recent years, apparel comprised almost two-thirds of Haiti’s exports to the world and more than 95 percent of U.S. imports from Haiti under CBERA, including HOPE/HELP.⁴⁰⁶ Almost all U.S. imports of textiles and apparel from Haiti entered duty free under CBERA preferences (including HOPE/HELP) in 2022 (table 2.18). In 2022, 75.2 percent of the apparel and textiles imports from Haiti entered under HOPE/HELP preferences rules, remaining relatively consistent with recent years (table 2.18). The overall value of textile and apparel imports from Haiti fell 4.9 percent from 2021 to 2022 (table 2.17). U.S. imports of apparel from Haiti fell substantially from 2019 to 2020 because of the COVID-19 pandemic, recovered in 2021 above pre-pandemic levels, and fell in 2022 as a result of new challenges, including civil unrest and a cholera outbreak.⁴⁰⁷ Overall use of apparel preference rules fell from 2021 to 2022, with slight declines in both overall CBERA/CBTPA imports (–8.9 percent) and Haiti preference program imports (–1.3 percent) (table 2.17).

Table 2.17 U.S. imports of textiles and apparel from Haiti, 2020–22

In millions of dollars and percentages. CBERA = the Caribbean Basin Economic Recovery Act; CBTPA = the Caribbean Basin Trade Partnership; HOPE = the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 and of 2008; HELP = the Haiti Economic Lift Program of 2010.

Preference program	2020 (million \$)	2021 (million \$)	2022 (million \$)	Percentage change, 2021–22 (%)
Imports that claimed CBERA/CBTPA preferences	175	254	231	-8.9
Imports that claimed Haiti HOPE I/HOPE II/HELP Act preferences	573	750	740	-1.3
Total Imports that claimed CBERA/CBTPA/Haiti HOPE I/HOPE II/HELP ACT preferences	748	1,004	971	-3.2
All other imports	16	31	13	-58.3
Total imports of textile and apparel from Haiti	764	1,035	984	-4.9

Source: USITC DataWeb/Census, accessed July 5, 2023.

⁴⁰³ 19 U.S.C. § 2703a(e)(1) and (3).

⁴⁰⁴ 19 U.S.C. § 2703a(e)(1) and (3); USTR, *2022 USTR Annual Report on TAICNAR*, 2022.

⁴⁰⁵ 19 U.S.C. § 2703a(h). The original HOPE I benefits were granted for three years, and the trade benefits have been subsequently extended by HOPE II (to 2018), by HELP (to 2020), and by Section 301 of the Trade Preferences Extension Act of 2015 (to 2025).

⁴⁰⁶ USITC, *Caribbean Basin Economic Recovery Act, 26th Report*, September 2023, 59, 139.

⁴⁰⁷ USITC, *Caribbean Basin Economic Recovery Act, 26th Report*, September 2023, 55–56.

Table 2.18 Share of U.S. imports of textiles and apparel from Haiti, 2020–22

In percentages and percentage points. CBERA = the Caribbean Basin Economic Recovery Act; CBTPA = the Caribbean Basin Trade Partnership; HOPE = The Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 and of 2008; HELP = The Haiti Economic Lift Program of 2010; — (em dash) = not applicable.

Preference program	2020 (%)	2021 (%)	2022 (%)	Percentage point change, 2021–22
Imports that claimed CBERA/CBTPA preferences	22.9	24.5	23.5	-1.0
Imports that claimed Haiti HOPE I/HOPE II/HELP Act preferences	75.1	72.5	75.2	2.7
Total Imports that claimed CBERA/CBTPA/Haiti HOPE I/HOPE II/HELP ACT preferences	97.9	97.0	98.7	1.7
All other imports	2.1	3.0	1.3	-1.7
Total imports of textile and apparel from Haiti	100.0	100.0	100.0	—

Source: USITC DataWeb/Census, accessed July 5, 2023.

Chapter 3

The World Trade Organization

This chapter provides an overview of major developments at the World Trade Organization (WTO) during 2022, particularly as they affect the United States. The overview includes developments at the 12th Ministerial Conference, held in June 2022, at the General Council level, and through meetings of more than 20 standing WTO committees, as well as selected WTO plurilateral agreements under discussion. It also includes developments relating to the waiver proposal for certain provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), WTO dispute settlement activity in which the United States was either the complaining or responding party, and continued U.S. concerns about the operation of the WTO Dispute Settlement Mechanism.

Background

The WTO was established by 124 governments through the Marrakesh Agreement in April 1994, which replaced an earlier world trade framework under the General Agreement on Tariffs and Trade (GATT), signed in October 1947, and procedures adopted in 1948. As stated in the Marrakesh Agreement, the main functions of the WTO include (1) facilitating the implementation, administration, and operations of the Marrakesh Agreement, the Multilateral Trade Agreements, and the Plurilateral Trade Agreements; (2) providing the forum for negotiations among its members concerning their multilateral trade relations; and (3) administering the Understanding on Rules and Procedures Governing the Settlement of Disputes.⁴⁰⁸ Currently, the WTO oversees about 16 agreements (to which all WTO members are parties) and 2 plurilateral agreements (the Agreement on Trade in Civil Aircraft and the Agreement on Government Procurement), to which only some WTO members are parties.⁴⁰⁹ The WTO has 164 member and 25 observer countries,⁴¹⁰ representing 98 percent of world trade,⁴¹¹ with 24 accessions in progress.⁴¹²

Under the Marrakesh Agreement, the Ministerial Conference is the WTO's highest decision-making body. It is composed of representatives of all the members and carries out the functions of the WTO. The Ministerial Conference usually convenes every two years and has the authority to make decisions on all matters under any of the multilateral trade agreements.⁴¹³ Below this is the General Council, which comprises representatives of all WTO member states. The General Council meets several times a year in its headquarters in Geneva, Switzerland. The General Council also meets as the Trade Policy Review

⁴⁰⁸ WTO, "Marrakesh Agreement," art. III, April 15, 1994.

⁴⁰⁹ The agreements fall into a simple structure with six main parts: an umbrella agreement (the Agreement establishing the WTO); agreements for each of the three broad areas of trade that the WTO covers (goods, services, and intellectual property); dispute settlement; and reviews of governments' trade policies. WTO, "Overview: A Navigational Guide," accessed June 12, 2023.

⁴¹⁰ As of May 9, 2023. WTO, "Members and Observers," accessed June 12, 2023.

⁴¹¹ WTO, "Fact File," accessed June 12, 2023.

⁴¹² WTO, "WTO Accessions," accessed June 12, 2023.

⁴¹³ WTO, "Marrakesh Agreement," art. IV, art. IX, April 15, 1994; WTO, "Ministerial Conferences," accessed June 12, 2023.

Body and the Dispute Settlement Body.⁴¹⁴ At the next level, the Goods Council, Services Council, and Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS)⁴¹⁵ report to the General Council. Numerous specialized committees, working groups, and working parties handle individual agreements and other trade areas, such as environment, development, membership applications, and regional trade agreements.⁴¹⁶

The WTO Secretariat, led by the WTO Director-General, provides technical and professional support to the WTO's councils and committees, provides technical assistance for developing countries, monitors developments in world trade, conducts economic research, disseminates information on WTO activities, and organizes ministerial conferences. It also provides legal assistance in the WTO's dispute settlement process and advises governments wishing to join the WTO. The Secretariat, however, has no decision-making powers.⁴¹⁷ The current WTO Director-General is Ngozi Okonjo-Iweala of Nigeria, who took office as the seventh WTO Director-General on March 1, 2021. Her term will expire on August 31, 2025.⁴¹⁸

The Commission administers, in part, U.S. statutes implementing several WTO agreements, including the Agreement on Implementation of Article VI of the Agreement on Tariffs and Trade 1994 (antidumping), the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards.

WTO Developments in 2022

Ministerial Conference

The Twelfth WTO Ministerial Conference, informally referred to as MC12, was held in Geneva during June 12–17, 2022. MC12 was held following two earlier postponements of the conference from June 2020 and December 2021 because of the COVID-19 pandemic and travel and quarantine restrictions in Switzerland.⁴¹⁹ In December 2022, the General Council agreed to hold the next Ministerial Conference meeting (MC13) in Abu Dhabi (United Arab Emirates) during the week of February 26, 2024, and agreed that Cameroon will host MC14 at a date to be determined.⁴²⁰

At the conclusion of MC12, the ministers adopted a package of agreements, referred to as the “Geneva package,” that included the following:

- An outcome document covering WTO reform and other issues;
- A series of initiatives comprising a Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics; a Ministerial Decision on the Agreement on Trade-Related Aspects of Intellectual Property Rights; an Agreement on Fisheries Subsidies; a Ministerial Declaration on Emergency Response to Food Insecurity; a Ministerial Decision on

⁴¹⁴ WTO, “Marrakesh Agreement,” art. IV 2–4, April 15, 1994.

⁴¹⁵ WTO, “Marrakesh Agreement,” art. IV, 5, April 15, 1994.

⁴¹⁶ WTO, “Marrakesh Agreement,” art. IV, 6, April 15, 1994.

⁴¹⁷ WTO, “Marrakesh Agreement,” art. VI, April 15, 1994; WTO, “Overview of the WTO Secretariat,” accessed June 13, 2023.

⁴¹⁸ WTO, “WTO Director-General: Ngozi Okonjo-Iweala,” accessed June 13, 2023.

⁴¹⁹ WTO, “Twelfth WTO Ministerial Conference,” accessed June 13, 2023.

⁴²⁰ WTO, *Annual Report 2023*, 2023, 25.

World Food Programme (WFP) Food Purchases Exemptions from Export Prohibitions or Restrictions; and a Decision on the E-commerce Moratorium and Work Programme;

- Decisions on the Work Programme on Small Economies and on TRIPS non-violation and situation complaints; and
- A Sanitary and Phytosanitary Declaration for the 12th WTO Ministerial Conference: Responding to Modern Sanitary and Phytosanitary Challenges.⁴²¹

The key elements of the agreements in the Geneva package are described in more detail below.

Fisheries Subsidies

Members approved an Agreement on Fisheries Subsidies, in which they commit to eliminating the most harmful fisheries subsidies that are fueling depletion of fish stocks and depriving fishing communities of their livelihoods.⁴²² This is the first WTO agreement to have a primarily environmental objective as its core, and it is only the second multilateral agreement reached at the WTO after the Trade Facilitation Agreement in 2013.⁴²³ The negotiations were initially launched in 2001 at the Doha Ministerial Conference. The WTO estimated fisheries subsidies to be between \$14 billion and \$54 billion per year.⁴²⁴

The agreement (1) prohibits support for illegal, unreported, and unregulated fishing; (2) bans support for fishing in overfished stocks; and (3) takes “a first but significant step” in curbing overcapacity and overfishing by ending subsidies for fishing on the unregulated high seas.⁴²⁵ MC12 directed the Negotiating Group on Rules to continue negotiations on outstanding issues, with a view to making recommendations on additional provisions to MC13, set for February 2024. In addition, it directed the negotiating group to conduct a “second wave” of negotiations, with a goal of making recommendations to MC13 on additional provisions for a comprehensive agreement on fisheries subsidies, including further disciplines on certain forms of fisheries subsidies that contribute to overcapacity and overfishing.⁴²⁶

WTO Response to the COVID-19 Pandemic

At the June 2022 Ministerial Conference (MC12), WTO members adopted a Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics. The declaration called attention to the medical supply constraints and lack of equitable access to vaccines. It called for future work to include export restrictions, food security, intellectual property, regulatory cooperation, services, tariff classification, technology transfer, trade facilitation, and transparency, with a yearly stocktaking exercise to take place in the General Council up to year-end 2024.⁴²⁷

In parallel, a Ministerial Decision on the TRIPS Agreement, also was adopted at MC12. The Ministerial Decision provided additional TRIPS Agreement flexibilities for developing country members with respect

⁴²¹ See WTO, *Annual Report 2023*, 2023, 10–11; WTO, *Annual Report 2022*, 2022, 34.

⁴²² WTO, *Annual Report 2023*, 2023, 11.

⁴²³ WTO, *Annual Report 2023*, 2023, 11, 55–56.

⁴²⁴ WTO, *Annual Report 2022*, 2022, 35.

⁴²⁵ WTO, *Annual Report 2023*, 2023, 55–56; WTO, *Annual Report 2022*, 2022, 35.

⁴²⁶ WTO, *Annual Report 2023*, 2023, 11, 58. As of July 2023, only two WTO members—Switzerland and Singapore—in January and February 2023, respectively, had formally submitted their acceptances of the Fisheries Agreement.

⁴²⁷ WTO, *Annual Report 2023*, 2023, 12.

to patents for COVID-19 vaccines, including by relaxing the conditions on the use of compulsory licenses to manufacture pharmaceutical products for export. The Decision has a duration of five years, with the possibility of extensions⁴²⁸. The decision stipulated that members should decide by December 17, 2022, whether to extend coverage beyond COVID-19 vaccines to COVID-19 diagnostics and therapeutics. Given differences between the members, however, the TRIPS Council recommended that the December 2022 deadline should be extended, and on December 20, 2022, the General Council agreed to the proposal.⁴²⁹ The General Council resolved to return to the question of the duration of the extension at its next meeting, held on March 6–7, 2023, where members again agreed to keep the issue open for discussion while substantive discussions continue in the Council for TRIPS.⁴³⁰

Food Security

At MC12, WTO members adopted a ministerial declaration confirming the vital role of trade in improving global food security and committing members to improving the functioning of global markets for food and agriculture. They also adopted a decision exempting food purchased by the United Nations World Food Programme for humanitarian purposes from any export prohibitions or restrictions. WTO members sought to address food shortages and soaring food prices to ensure that the most vulnerable can access emergency food aid.⁴³¹

Electronic Commerce

As part of their Ministerial Decision on the Work Programme on electronic commerce, WTO members agreed to maintain their current practice of not imposing customs duties on electronic transmissions, with the moratorium to remain in effect until MC13, due to be held in February 2024.⁴³² The three co-convenors of the Joint Statement on Electronic Commerce issued a ministerial statement in June 2022, acknowledging progress made on new rules on trade-related aspects of e-commerce. A revised and streamlined negotiating text was circulated in December 2022.⁴³³

WTO Reform

WTO members agreed in 2022 to undertake a comprehensive review of the WTO's functions to ensure that the organization can respond more effectively to the challenges facing the multilateral trading system. The document adopted on June 17, 2022, committed members to work toward improving the functions—with the review to be carried out through the General Council and subsidiary bodies—and the goal of submitting possible reform proposals to MC13.⁴³⁴ Members also agreed to talks on

⁴²⁸ WTO, *Annual Report 2023*, 2023, 62; USITC, *COVID-19 Diagnostics and Therapeutics*, October 2023, 56–57.

⁴²⁹ WTO, *Annual Report 2023*, 2023, 62. For more information on the TRIPS Agreement, please see *COVID-19 Diagnostics and Therapeutics*, USITC, October 2023.

⁴³⁰ WTO, *Annual Report 2022*, 2022, 35–36; WTO, “Members Continue Discussion on TRIPS Decision Extension,” March 17, 2023.

⁴³¹ WTO, *Annual Report 2023*, 2023, 11; WTO, *Annual Report 2022*, 2022, 36.

⁴³² WTO, *Annual Report 2023*, 2023, 11.

⁴³³ WTO, *Annual Report 2023*, 2023, 65.

⁴³⁴ WTO, *Annual Report 2022*, 2022, 37; WTO, *Annual Report 2023*, 2023, 11.

addressing concerns with respect to the WTO dispute settlement system, with the view to securing a fully functioning system by 2024.⁴³⁵

Other Topics

Ministers adopted a Sanitary and Phytosanitary Declaration committing members to modernize the Sanitary and Phytosanitary Agreement. In November 2022, members agreed on the process for undertaking this work. Ministers also adopted a decision reaffirming their commitment to address the challenges faced by small economies. Ministers also decided to extend, until MC13, a moratorium on so-called TRIPS “non-violation and situation” complaints that involve situations in which a WTO member may argue that it has been deprived of an expected intellectual property benefit, even if no agreement has been violated.⁴³⁶

General Council

Much of the work of the General Council during 2022 related to preparing for the MC12 in June 2022 and in addressing matters raised or decided at MC12. A significant number of informal consultations and smaller gatherings of WTO members, however, occurred at various levels throughout 2022, with the Office of the U.S. Trade Representative (USTR) participating in those meetings. The sections below highlight areas in which significant work occurred during 2022 in WTO committees, other bodies, and plurilateral configurations.

Services

Ahead of MC12, discussions in the Council for Trade in Services special session focused on agreeing on a text on service inclusion in the MC12 outcome document. The text, which ministers accepted, focused on the role of trade in services in the global economy and the increasing participation of developing economies in global services trade.⁴³⁷ As of December 2022, 61 members, representing 89 percent of global services trade, had submitted improved schedules of commitments for certification.⁴³⁸

Trade and Environment Initiatives

Work in three WTO environmental initiatives—the Trade and Environmental Sustainability Structured Discussions (TESSD), the Dialogue on Plastics Pollution and Environmentally Sustainable Plastics Trade, and the Fossil Fuel Subsidy Reform initiative—made progress in 2022. The initiatives share the objective of making trade part of the solutions to addressing global environment challenges.⁴³⁹ In 2022, the United States, led by USTR, engaged in TESSD discussions by participating in five meetings, including two substantive informal working group meetings and a High-Level Stocktaking in December 2022. The United States developed a submission to spur discussions on climate change and the circular economy, which was circulated in May 2022 to the TESSD and to the Committee on Trade and Environment. The United States shared its policy priorities on trade-related climate measures and a trade-facilitative

⁴³⁵ WTO, *Annual Report 2023*, 2023.

⁴³⁶ WTO, *Annual Report 2023*, 2023, 11.

⁴³⁷ WTO, *Annual Report 2023*, 2023, 59.

⁴³⁸ WTO, *Annual Report 2023*, 2023, 69.

⁴³⁹ WTO, *Annual Report 2023*, 2023, 70.

approach to the circular economy.⁴⁴⁰ The United States also engaged in discussions to reconsider methods for identifying environmental goods and services.⁴⁴¹

In October 2022, the United States, on the margins of a TESSD working group meeting, organized a small group roundtable to discuss non-pricing approaches to address climate change and existing trade tools that could be leveraged to address climate change. Challenges were noted in measuring carbon emissions, and there was recognition that a sectoral approach could help focus attention on the question of carbon measurement and divergences across standards.⁴⁴²

Council for Trade in Goods

Committee on Agriculture

The Committee on Agriculture held four formal meetings during 2022 to review progress on the implementation of the commitments of the Agreement on Agriculture. The United States participated in the review process and raised issues concerning the operation of members' agricultural policies. The United States asked 22 questions of India about domestic support issues, including public stockholding issues. The questions centered on the lack of information in India's notifications and sought to gain more insight into India's domestic support measures and data submitted by India under the transparency provisions of the Bali Public Stockholding for Food Security Decision.

Other U.S. questions focused on the European Union's (EU's) and the United Kingdom's tariff-rate quota policies, various members' export restrictions, China's subsidies for various products, Turkey's freight subsidies, and the Philippines' import clearance permits.⁴⁴³

Other General Council Bodies and Activities

Committee on Trade and Environment

In 2022, the Committee on Trade and Environment met three times. The United States worked to advance priorities related to trade and climate change, the circular economy (reusing and recycling goods as much as possible), and environmental goods and services. A key priority of the United States was to direct members' attention to the role that a more circular economy can play in addressing climate change. The United States convened an event during the 2022 Environment Week to propose how WTO members could support a more affirmative trade policy to enhance circularity for climate change solutions. The event recommended priority trade-related actions and considerations, such as analyzing which materials will be required to meet low-carbon energy demand, where these materials

⁴⁴⁰ The U.S. Environmental Protection Agency defines a "circular economy" as one that "reduces material use, redesigns materials, products, and services to be less resource intensive, and recaptures 'waste' as a resource to manufacture new materials and products." EPA, "What Is a Circular Economy?," May 26, 2023.

⁴⁴¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 221.

⁴⁴² USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 221; WTO, *Annual Report 2023*, 2023, 76.

⁴⁴³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 224.

are sourced from, where supply chain reliability is risky, and identifying financial, regulatory, and technical barriers that may exist.⁴⁴⁴

Dispute Settlement Body

This section provides an overview of the WTO dispute settlement process, as well as information about proceedings in 2022, particularly those in which the United States was a complaining or responding party. More specifically, this section provides (1) a tally of new requests for consultations filed by WTO members in 2022 under the WTO Dispute Settlement Understanding, (2) a table that lists the new dispute settlement panels established in 2022 in which the United States was either the complaining party or the named respondent, and (3) short summaries of the procedural and substantive issues in disputes involving the United States in 2022, as well as summaries of panel and Appellate Body reports issued during 2022 in disputes that involved the United States. This section also describes the impact that two factors—the COVID-19 pandemic and the impasse on appointing new Appellate Body members—had on panel and Appellate Body activity during 2022.

This section’s summaries of issues and of findings and recommendations in panel reports and any Appellate Body reports are based entirely on information in publicly available documents. Sources include summaries published online by the WTO, summaries included in USTR’s *2023 Trade Policy Agenda and 2022 Annual Report*, and summaries included in USTR press releases. These summaries should not be regarded as comprehensive or as reflecting a U.S. government or Commission interpretation of the issues raised or addressed in the disputes or in panel or Appellate Body reports. A table showing procedural developments in active cases, including during 2022 in disputes in which the United States was the complainant or respondent, appears in the [interactive dashboard](#).

This section focuses on developments during 2022, including panel reports issued during 2021 and adopted in 2022 and early 2023. Given its ongoing vacancies, the Appellate Body currently is unable to review appeals. The term of the last sitting Appellate Body member expired on November 30, 2020.⁴⁴⁵ No Appellate Body reports were issued during 2022 in the absence of a functioning Appellate Body. A number of disputes filed before 2022 remained inactive throughout 2022, either at the consultation stage or with a panel established but not composed. With minor exceptions, this report will not address those disputes.

Finally, in the absence of a functioning Appellate Body, this section focuses largely on developments through the panel stage and includes only limited discussion of matters that arose after the DSB adopted a panel or Appellate Body report in the original dispute. Dispute settlement often continues beyond the adoption of the panel or Appellate Body report, particularly when the defending party is the “losing” party (figure 3.1). Issues may arise about the reasonableness of the time sought by the losing party to implement findings and recommendations, the adequacy of actions taken by that party to comply with the findings and recommendations, and possible compensation and retaliation. Matters may be referred to the original panel or to a new panel for further findings and recommendations on compliance and other matters, and, when appropriate, the parties may seek the help of an arbitrator to resolve matters.

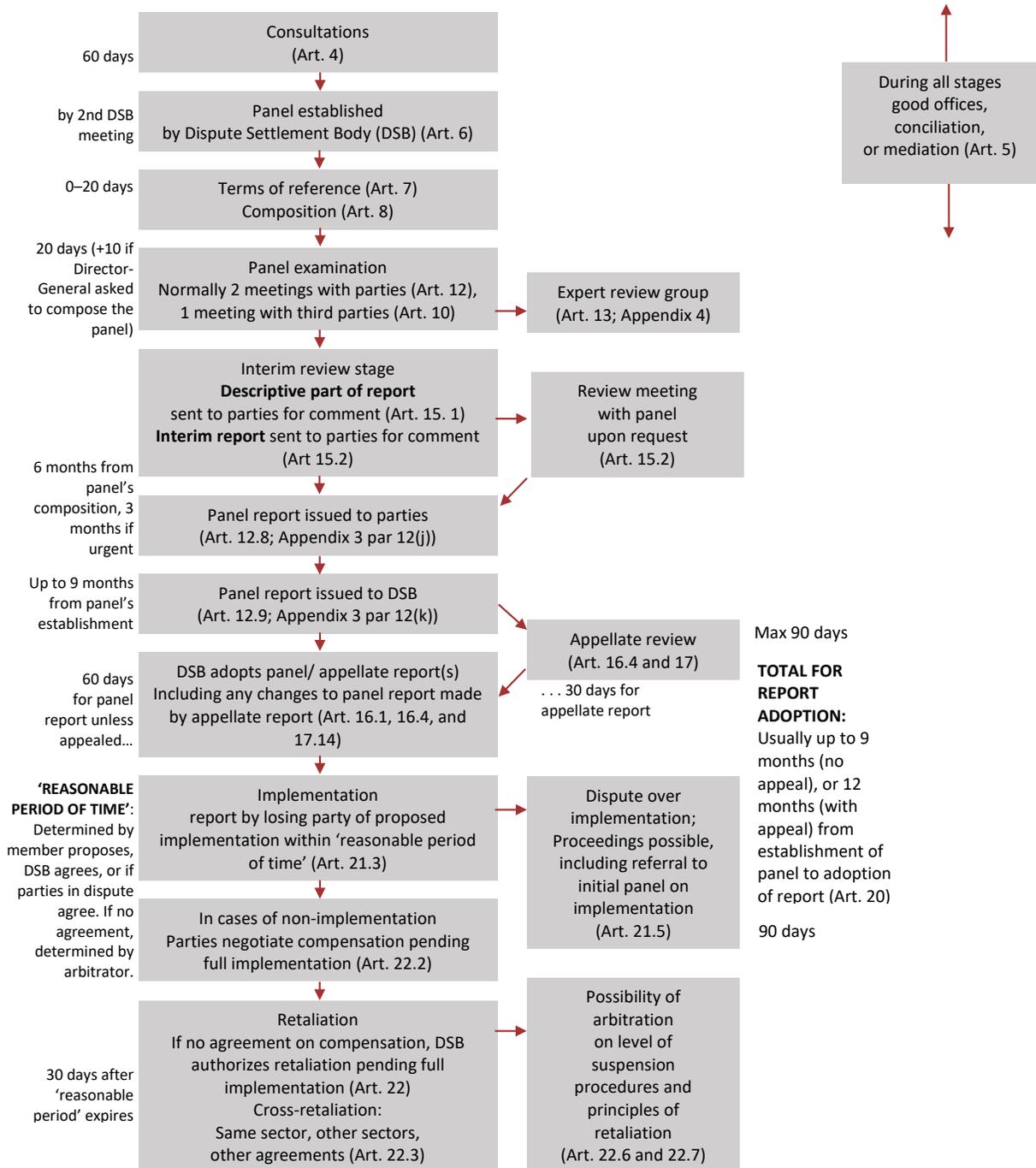
⁴⁴⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 232.

⁴⁴⁵ WTO, “Appellate Body,” accessed November 30, 2023.

The table in the [interactive dashboard](#) sets out the timeline for procedural actions in specific active WTO dispute settlement cases, including procedural actions at the implementation, compliance, and compensation or retaliation stages. A number of disputes were still active at the compliance stage or were presented before an arbitrator during 2022.

Figure 3.1 Timeline for a typical WTO dispute settlement process

Art. = article.



Source: WTO, "Flow Chart of the Dispute Settlement Process," accessed March 29, 2022.

U.S. Concerns about WTO Dispute Settlement

In February 2020, USTR issued its *Report on the Appellate Body of the World Trade Organization*, setting out U.S. concerns about the operation of the WTO dispute settlement, particularly at the Appellate Body level. The February 2020 report provided the following examples showing that the Appellate Body has strayed from the role assigned to it:

- “Contrary to the principle of prompt settlement of disputes, the Appellate Body has consistently breached the mandatory deadline for the completion of appeals.”
- “Contrary to WTO rules, the Appellate Body has unilaterally declared that it has the authority to allow individuals formerly serving on the Appellate Body, whose terms have expired, to continue to participate in and decide appeals.”
- “The Appellate Body has exceeded its limited authority to review legal issues by reviewing panel findings of fact, including factual findings relating to the meaning of WTO Members’ domestic law.”
- “The Appellate Body has overstepped its role under the Dispute Settlement Understanding by rendering advisory opinions on issues not necessary to assist the Dispute Settlement Body in resolving a dispute.”
- “The Appellate Body wrongly claims that its reports are entitled to be treated as binding precedent and must be followed by panels, absent ‘cogent reasons.’”
- “The Appellate Body has asserted that it may ignore the text of the Dispute Settlement Understanding explicitly mandating it recommend a WTO Member to bring a WTO-inconsistent measure into compliance with WTO rules.”
- “The Appellate Body has overstepped its authority and opined on matters within the authority of other WTO bodies, including the Ministerial Conference, the General Council, and the Dispute Settlement Body.”⁴⁴⁶

The February 2020 report also stated that “the Appellate Body’s persistent overreaching has taken away rights and imposed new obligations through erroneous interpretations of WTO agreements,”⁴⁴⁷ and supported this with examples, including those that the report indicates have prejudiced the ability of market economy countries to take measures to address economic distortions caused by nonmarket economies.⁴⁴⁸

In its *2023 Trade Policy Agenda and 2022 Annual Report*, issued in March 2023, USTR stated:

Prior to 2022, the United States made a series of statements at DSB meetings explaining that, for more than 17 years and across multiple U.S. Administrations, the United States has been raising serious concerns with the Appellate Body’s disregard for the rules set by WTO Members and adding to or diminishing rights or obligations under the WTO Agreement. Many WTO Members share these concerns, whether on the mandatory 90-day deadline for appeals, review of panel fact-finding, issuing advisory opinions on issues not necessary to resolve a dispute, the treatment of Appellate Body reports as precedent, or persons serving on appeals after their

⁴⁴⁶ USTR, *Report on the Appellate Body of the WTO*, February 2020, 1 and 4–8.

⁴⁴⁷ USTR, *Report on the Appellate Body of the WTO*, February 2020, 2 and 8–12.

⁴⁴⁸ USTR, *Report on the Appellate Body of the WTO*, February 2020, 8–12.

term has ended. The United States has also explained that when the Appellate Body abused the authority it had been given within the dispute settlement system, it undermined the legitimacy of the system and damaged the interests of all WTO Members who cared about having the agreements respected as they had been negotiated and agreed. A rules-based trading system requires adjudicators to follow the rules as agreed by WTO Members.

For many years, the United States and other WTO Members have raised repeated concerns about appellate reports going far beyond the text setting out WTO rules in areas as varied as subsidies, antidumping and countervailing duties, standards under the Technical Barriers to Trade Agreement, and safeguards. Such overreach restricts the ability of the United States to regulate in the public interest or protect U.S. workers and businesses against unfair trading practices.

As a result, the United States was not prepared to agree to launch the process to fill vacancies on the WTO Appellate Body, thereby allowing the Appellate Body to continue to hear appeals, without WTO Members engaging with and addressing these critical issues. Accordingly, there are presently no persons serving on the Appellate Body.⁴⁴⁹

⁴⁴⁹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 236–37.

Dispute Activities during 2022

During 2022, WTO members filed eight new requests for dispute settlement consultations, one less than in 2021 and the second-lowest in the DSB’s 27 years of operation, after the five filed in 2020.⁴⁵⁰ One new dispute was filed during 2022 against the United States, by China; the United States filed no new disputes during 2022. Of the seven remaining new disputes filed during 2022, the EU filed five—one each against Russia, Egypt, and the UK, and two against China; Argentina filed one dispute against Peru; and South Africa filed one against the EU.⁴⁵¹

New Requests for Consultations Filed in 2022 that Involve the United States

The one new request for consultations with the United States was filed by China, on December 12, 2022 (table 3.1). China requested consultations concerning certain measures of the United States related to trade in certain advanced computing semiconductor chips, supercomputer items, semiconductor manufacturing items, and other items, as well as services and technologies related to those items destined for or in relation to China. China alleged that the measures are inconsistent with Articles I:1, X:1, X:3, and XI:1 of GATT 1994, Article 2 of the Agreement on Trade-Related Investment Measures, Article 28 of the TRIPS Agreement, and Article VI of the General Agreement on Trade in Services (GATS).⁴⁵²

Table 3.1 New requests for WTO consultations filed during 2022 that name the United States

Case no.	Complainant	Respondent	Case name	Request filed
DS615	China	United States	United States—Measures on Certain Semiconductor and Other Products, and Related Services and Technologies	12/12/2022

Source: WTO, “Chronological List of Disputes Cases,” accessed June 13, 2023.

Panel and Appellate Body Reports Issued during 2022 or Adopted during 2022 or early 2023 that Involve the United States

During 2022, WTO dispute settlement panels issued reports in six disputes in which the United States was the named respondent (table 3.2), including in four related disputes involving U.S. measures on steel and aluminum products. This section covers only panel reports relating to the original disputes and does not include subsequent reports, such as those of a compliance panel or an arbitrator. Many of the

⁴⁵⁰ WTO, “Chronological List of Disputes Cases,” accessed June 13, 2023.

⁴⁵¹ WTO, “Chronological List of Disputes Cases,” accessed June 13, 2023.

⁴⁵² WTO, “DS615: United States,” accessed June 13, 2023. On February 9, 2023, China revised and replaced its consultations request of December 12, 2022, by modifying its legal basis to Article XXIII of GATT 1994 and Article XXIII of the GATS (instead of Article XXII of GATT 1994 and Article XXII of the GATS).

compliance reports are noted in the [interactive dashboard](#), which contains a procedural summary of most of the dispute settlement cases that are still active in some respect.

Table 3.2 WTO dispute settlement panel reports circulated or adopted in 2022 to which the United States was a party

Case no.	Complainant	Respondent	Case name	Development
DS544	China			
DS552	Norway			
DS556	Switzerland		United States—Certain Measures on Steel and Aluminum Products	Panel reports were circulated on December 9, 2022.
DS564	Turkey	United States		Panel report was circulated on February 8, 2022; panel report adopted April 28, 2023, with recommendation to bring measure into conformity.
DS546	South Korea	United States	United States—Safeguard Measure on Imports of Large Residential Washers	Panel report was circulated on December 21, 2022; United States filed notice of appeal on January 26, 2023.
DS597	Hong Kong, China	United States	United States—Origin Marking Requirement	

Source: WTO, “Chronological List of Disputes Cases,” accessed June 13, 2023. No panel reports in which the United States was the complainant were issued during 2022.

Reports in which the United States Was the Respondent

United States—Certain Measures on Steel and Aluminum Products

Four of nine disputes with the same title—Certain Measures on Steel and Aluminum Products—were filed in 2018 by China (DS544), Norway (DS552), Switzerland (DS556), and Turkey (DS564), challenging higher duties imposed by the United States under section 232 of the Trade Expansion Act of 1962 (“safeguarding national security,” 19 U.S.C. § 1862). Substantially identical panel reports were issued in all four disputes on December 9, 2022. Three other disputes involving similar claims filed by the EU (DS548), Canada (DS550), and Mexico (DS551) were resolved by mutual agreement and withdrawn, and

two additional disputes with similar claims filed by India (DS547⁴⁵³) and Russia (DS554) were still pending before panels at year-end 2022.⁴⁵⁴

All four requests for consultations were filed in 2018 and contained substantially the same claims, that the U.S. measures appear to be inconsistent with:

- Articles 2.1, 2.2, 4.1, 4.2, 5.1, 7, 11.1(a), 12.1, 12.2, and 12.3 of the Agreement on Safeguards; and
- Articles I:1, II:1(a) and (b), X:3(a), XIX:1(a), and XIX:2 of GATT 1994.

After consultations failed to resolve the respective disputes, each country filing a dispute requested the establishment of a panel. Panels were established in 2018 for all four disputes and composed by the Director-General in 2019. The same chair and two panel members were appointed to each panel requested by China, Norway, Switzerland, and Turkey, as well as the panels for the disputes filed by India⁴⁵⁵ and Russia.

On December 9, 2022, after several delays due to the complexity of the dispute and the global COVID-19 pandemic, the panel reports were circulated to members. The summaries of the key findings of the panel reports were substantially identical, and the summary below is from summaries prepared by the WTO and published on its website, with only minor changes made to reflect certain U.S. spellings and Commission presentation style.⁴⁵⁶

Summary of the WTO Panel Report⁴⁵⁷

This dispute concerns duties and related measures imposed by the United States on steel and aluminum imports under section 232 of the Trade Expansion Act of 1962, as amended.

The panel found that the duties on steel and aluminum were inconsistent with Article II:1 of GATT 1994 because they exceeded the bound tariff rates in the U.S. WTO Schedule of Concessions. The panel also found that exemptions from the duties granted to steel and aluminum products from certain countries

⁴⁵³ On June 22, 2023, USTR announced the resolution of this and five other disputes between the United States and India, including three disputes initiated by each:

- *United States—Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436);
- *India—Certain Measures Relating to Solar Cells and Solar Modules* (DS456);
- *United States—Certain Measures Relating to the Renewable Energy Sector* (DS510);
- *India—Export Related Measures* (DS541);
- *United States—Certain Measures on Steel and Aluminium Products* (DS547); and
- *India—Additional Duties on Certain Products from the United States* (DS585).

USTR announced the resolution of the last pending dispute with India in a press release issued on September 8, 2023, in *India—Measures Concerning the Importation of Certain Agricultural Products* (DS 430). USTR, “U.S. Announces Resolution of WTO Poultry Dispute with India,” September 8, 2023.

⁴⁵⁴ WTO, “Chronological List of Disputes Cases,” accessed June 13, 2023.

⁴⁵⁵ This dispute was terminated in June 2023. USTR, “United States Announces Resolution on Trade Issues with India,” June 22, 2023.

⁴⁵⁶ WTO, “Chronological List of Disputes Cases,” accessed June 13, 2023.

⁴⁵⁷ WTO, “DS544: United States—Certain Measures on Steel and Aluminium Products,” accessed December 5, 2023.

were inconsistent with the requirement of most-favored-nation treatment under Article I:1 of GATT 1994.

The panel addressed the applicability of Article XIX of GATT 1994 and the Agreement on Safeguards to the measures at issue, focusing on Article 11.1(c) of the Agreement on Safeguards, which provides that the agreement “does not apply to measures sought, taken or maintained by a member pursuant to provisions of GATT 1994 other than Article XIX.” The panel considered that the term “pursuant to” in this provision referred to measures sought, taken, or maintained under the purview of another provision of GATT 1994, without entailing consistency with the specific requirements of such other provision. The panel concluded from evidence of the design and application of the measures at issue that they were sought, taken, or maintained pursuant to Article XXI of GATT 1994 within the meaning of Article 11.1(c) of the Agreement on Safeguards. The panel therefore found that the Agreement on Safeguards did not apply to the measures at issue.

The United States invoked Article XXI(b) of GATT 1994 in relation to the measures at issue as “any action which it considers necessary for the protection of its essential security interests.” The United States further argued that its measures were “taken in time of war or other emergency in international relations” under Article XXI(b)(iii). The panel first addressed the parties’ interpretive disagreement on the extent to which the terms of Article XXI(b) of GATT 1994 permit review of a member’s invocation of that provision in proceedings under the Dispute Settlement Understanding (DSU). The panel considered that it was required under the DSU to address the U.S. invocation of Article XXI(b) of GATT 1994 in accordance with the terms of that provision and within an objective assessment of the relevant measures and claims.

Using its interpretation of Article XXI(b) of GATT 1994, the panel assessed whether the measures found to be inconsistent with certain provisions of GATT 1994 were taken under the conditions and circumstances described in subparagraph (iii) of Article XXI(b) providing that a member may take action that it considers necessary for the protection of its essential security interests “in time of war or other emergency in international relations.” The panel considered that an “emergency in international relations” under Article XXI(b)(iii) refers to situations of a certain gravity or severity and international tensions that are of a critical or serious nature in terms of their impact on the conduct of international relations.

Having considered the evidence and arguments submitted in these disputes, the panel did not find that the measures at issue were “taken in time of war or other emergency in international relations” within the meaning of Article XXI(b)(iii) of GATT 1994. The panel therefore found that the inconsistencies of the measures at issue with certain provisions of GATT 1994 were not justified under Article XXI(b)(iii) of GATT 1994.⁴⁵⁸

U.S. Response to the WTO Panel Report

On December 9, 2022, the day on which the panel report was circulated, USTR released a statement in response to the final public reports indicating that the “United States strongly rejects the flawed interpretation and conclusions in the World Trade Organization (WTO) panel reports”. The statement noted that “issues of national security cannot be reviewed in WTO dispute settlement and the WTO has

⁴⁵⁸ WTO, “DS544: United States—Certain Measures on Steel and Aluminium Products,” accessed December 5, 2023.

no authority to second-guess the ability of a WTO Member to respond to a wide range of threats to its security.” The statement went on to state that the reports “only reinforce the need to fundamentally reform the WTO dispute settlement system.” The statement ended by stating that “the Biden Administration is committed to preserving U.S. national security by ensuring the long-term viability of our steel and aluminum industries, and we do not intend to remove the Section 232 duties as a result of these disputes.”⁴⁵⁹

On January 26, 2023, the United States notified the DSB of its decision to appeal to the Appellate Body certain issues of law and legal interpretations in the panel reports. Several of the parties, including China, Turkey, Norway, and Switzerland, took note of the appeal.⁴⁶⁰ The Appellate Body is currently unable to review appeals, and a final decision is still pending.

DS546: United States—Safeguard Measure on Imports of Large Residential Washers

On May 14, 2018, South Korea requested consultations with the United States concerning definitive safeguard measures imposed by the United States on imports of large residential washers (LRWs). South Korea claimed that the measures appear to be inconsistent with certain provisions of Articles 1, 2, 3, 4, 5, 7, 8, and 12 of the Agreement on Safeguards and certain provisions of Articles I, II, X, and XIX of GATT 1994. After consultations failed to resolve the dispute, South Korea, on August 14, 2018, requested the establishment of a panel, and at its meeting of September 26, 2018, the DSB established a panel. On June 20, 2019, South Korea requested that the Director-General compose the panel, and on July 1, 2019, the Director-General complied.⁴⁶¹

On February 6, 2022, the panel report was circulated to members. The following is a summary of key findings by the panel, as published on the WTO website and accessed on May 18, 2023:

Summary of the WTO Panel Report⁴⁶²

With respect to South Korea’s claims challenging the absence of a reasoned and adequate explanation on “unforeseen developments” and the “obligations incurred” by the United States, which would have resulted in the alleged increased imports of LRWs causing serious injury, the panel found that the USITC acted inconsistently with Article XIX:1(a) of GATT 1994 and Article 3.1 of the Agreement on Safeguards because its report did not contain a reasoned and adequate explanation on “unforeseen developments” and the “obligations incurred” by the United States, within the meaning of Article XIX:1(a) of GATT 1994.

Regarding South Korea’s claims challenging the Commission’s definition of the domestic industry, the panel found that the Commission acted inconsistently with Article 4.1(c) of the Agreement on Safeguards because it included LRW parts in the definition of the domestic industry based on (1) its

⁴⁵⁹ USTR, “Statement from USTR Spokesperson Adam Hodge,” December 9, 2022.

⁴⁶⁰ U.S. Mission to International Organizations in Geneva, “Statements by the United States at the Meeting of the WTO Dispute Settlement Body,” January 27, 2023.

⁴⁶¹ WTO, “DS546: United States,” accessed June 13, 2023.

⁴⁶² WOT, “DS546: United States — Safeguard measure on imports of large residential washers,” accessed December 6, 2023.

finding of likeness but no competitive relationship between imported and domestically produced LRW parts and (2) how it applied a “product line” approach.

With regard to South Korea’s claims challenging the Commission’s finding on imports in increased quantities within the meaning of Article 2.1 of the Agreement on Safeguards, the panel rejected South Korea’s claim that the Commission erred in considering increased imports of LRWs and covered parts on a “cumulated” basis, explaining that the Commission was not precluded from doing so because the scope included both LRWs and covered parts.⁴⁶³ The panel also rejected South Korea’s claim that the Commission failed to consider subject import market share, noting that Article 2.1 only requires the consideration of import volume in absolute terms or relative to domestic production.⁴⁶⁴ Nonetheless, the panel found that the Commission acted inconsistently with Articles 2.1 and 3.1 of the Agreement on Safeguards because it failed to provide a reasoned and adequate explanation in support of its finding on increased imports.⁴⁶⁵

With respect to South Korea’s claims challenging the Commission’s serious injury finding, the panel rejected several of South Korea’s claims. The panel found that the Commission acted inconsistently with Articles 4.2(a) and 3.1 of the Agreement on Safeguards by failing to provide a reasonable and adequate explanation of the reasons for excluding the profit and loss data of the producer of belt-driven washers from the profit data used to determine the profitability of the domestic industry.

The panel rejected several of South Korea’s claims challenging the Commission’s causation determination. The panel, however, found that the Commission acted inconsistently with Articles 3.1 and 4.2(b) of the Agreement on Safeguards. It determined that the Commission did not provide a reasoned and adequate explanation in support of its finding that subject imports depressed and suppressed prices of the domestic like product as a whole. According to the panel, the Commission’s finding on coincidence in trends relied on the price analysis that the panel had found to be inconsistent with Article 4.2(b).

The panel found that the United States acted inconsistently with Article 12.3 because it failed to provide South Korea with adequate opportunities for prior consultations under Article 12.3 of the Agreement on Safeguards. The panel also found that as a consequence of this violation under Article 12.3, the United States had acted inconsistently with Article 8.1 of the Agreement on Safeguards.

The panel either rejected, or found it unnecessary to address, all other claims brought by South Korea in this dispute. These include claims brought under Articles 5.1, 7.1, 12.1, 12.2, and 11.1(a) of the Agreement on Safeguards as well as II.1 of GATT 1994. In addition, the panel—upholding some aspects of South Korea’s claims under Articles 2.1, 3.1, 4.1(c), 4.2(a), and 4.2(b) of the Agreement on Safeguards, as set out above—either rejected or found it unnecessary to address several other aspects of its claims under these provisions.

⁴⁶³ WTO, *Report of the Panel*, February 8, 2022, 7.83.

⁴⁶⁴ WTO, *Report of the Panel*, February 8, 2022, 7.87.

⁴⁶⁵ WTO, *Report of the Panel*, February 8, 2022, 7.96.

Response to the WTO Panel Report

In a communication dated April 28, 2023, the United States and South Korea notified the chair of the DSB that they had reached a mutually agreed solution in the dispute.⁴⁶⁶ During the DSB meeting that day, the United States stated that, despite being disappointed by certain panel findings, it had decided to allow the report to be adopted. The United States said this was done in consideration of the overall circumstances, including its desire to work with South Korea to resolve the dispute through mutually agreed solutions. The DSB then adopted the panel report, with the chair noting that members still retain the right to express their views on the report.⁴⁶⁷

DS597: United States—Origin Marking Requirement

On October 30, 2020, Hong Kong, China, requested consultations with the United States concerning certain measures related to the origin marking requirement applicable to goods produced in Hong Kong, China. It claimed that measures appeared to be inconsistent with Articles I:1, IX:1, and X:3(a) of GATT 1994, Articles 2(c), 2(d), and 2(e) of the Agreement on Rules of Origin, and Article 2.1 of the Technical Barriers to Trade Agreement.⁴⁶⁸

After consultations failed to resolve the dispute, on January 21, 2021, Hong Kong, China, asked the DSB to establish a panel, and on February 22, 2021, the DSB established a panel. On April 19, 2021, the Director-General composed a panel in response to an April 19, 2021, request from Hong Kong, China. On October 26, 2021, the chair of the panel informed the DSB that, because of the complexity of the issues presented in the dispute, the panel expected to issue its final report to the parties in the second quarter of 2022. On June 21, 2022, the chair of the panel informed the DSB that, because of the complexity of the dispute, the panel expected to issue its final report to the parties in the fourth quarter of 2022.⁴⁶⁹

The panel report was circulated to members on December 21, 2022. The following is a “summary of key findings” of the panel as published on the WTO website and accessed on June 13, 2023, with only minor changes⁴⁷⁰ in wording and punctuation:

Summary of the WTO Panel Report

This dispute concerns a requirement in U.S. law that imported goods produced in Hong Kong, China, be marked to indicate that their origin is “China” (origin marking requirement).

Through the 1992 Hong Kong Policy Act, the U.S. Congress granted Hong Kong, China, differential treatment from China in certain policy areas (including origin marking) on the condition that Hong Kong, China, remain sufficiently autonomous from China. Following certain events in Hong Kong, China, including the adoption of the Hong Kong Security Law by China in 2020, the U.S. President issued Executive Order 13936, determining that Hong Kong, China, was no longer sufficiently autonomous and

⁴⁶⁶ WTO, *Notification of a Mutually Agreed Solution*, May 1, 2023.

⁴⁶⁷ WTO, “Korea, US Reach Mutually Agreed Solution,” April 28, 2023.

⁴⁶⁸ WTO, “DS597: United States,” accessed June 13, 2023.

⁴⁶⁹ WTO, “DS597: United States,” accessed June 13, 2023.

⁴⁷⁰ WTO, “DS597: United States,” accessed June 13, 2023.

ordering suspension of the differential treatment in some areas (including origin marking). This led to the adoption of the origin marking requirement at issue.

The panel considered it appropriate to start its analysis with Hong Kong, China's claim under Article IX:1 of GATT 1994. In light of the U.S. invocation of Article XXI(b) of GATT 1994, the panel next decided that it was appropriate—and also the most efficient way to proceed—to examine the question of whether this provision is self-judging because it excludes any review of the challenged measure by a panel, as argued by the United States.

The panel saw no disagreement between the parties that Article XXI(b) contains language (“which it considers”) that refers to invoking members' own appreciation and judgment and is therefore “self-judging.” The panel identified the disagreement to be about whether, as argued by the United States, the phrase “which it considers” extends to the entirety of Article XXI(b) or, whether—as submitted by Hong Kong, China, and certain third parties—this phrase does not extend to the conditions and circumstances set out in the subparagraphs that would therefore be subject to review by the panel.

The panel carried out an interpretive analysis pursuant to Articles 31 and 33 of the Vienna Convention on the Law of Treaties. From this analysis, the panel concluded that the words “which it considers” in the chapeau of Article XXI(b) do not extend to the subparagraphs of that provision and that, therefore, the subparagraphs in Article XXI(b) are subject to review by a panel.

The panel found that the measure constitutes an origin marking requirement that falls within the scope of Article IX:1. Products produced in Hong Kong, China, which are subject to the measure, and products produced in any third country, which are not subject to the measure, could be presumed to be “like products” within the meaning of Article IX:1.

To assess whether the origin marking requirement accords to products of Hong Kong, China—treatment that is different from that accorded to products of other countries—the panel first resolved a factual disagreement between the parties, concerning the origin determination at issue. It found that the United States determines the origin of the products subject to the measure to be “Hong Kong, China” and not “China.”

The panel found that a difference in treatment resulted from the U.S. requirement that products of Hong Kong, China, be marked with a mark of origin indicating the name of another WTO member—China. Goods of any third country must be marked with the name of that third country and not with the name of another WTO member. The panel further found that this difference in treatment modified the conditions of competition to the detriment of products of Hong Kong, China. As a result, products of Hong Kong, China, were required to compete in the U.S. market with an indication that their origin is that of another WTO member—China—and not with an indication of their origin as determined by the United States (i.e., Hong Kong, China). Those products were denied the possibility to compete in the U.S. market under their own name and, thus, to influence, develop, or benefit from any value that may be attached—currently or in the future—to their origin.

The panel first addressed the interpretive and evidentiary aspects of subparagraph iii, which the United States had indicated to be the relevant subparagraph in Article XXI(b).

The panel concluded that the phrase “emergency in international relations” refers to a state of affairs of the utmost gravity, in effect a situation representing a breakdown or near-breakdown in the relations

between states or other participants in international relations. The panel found that the wording of the subparagraph enjoins a panel to examine the extent of the deterioration in relations between states or other participants in international relations, irrespective of what caused that deterioration. The panel further noted that the existence of such a situation must be assessed on a case-by-case basis in light of the specific facts involved. It considered that the state of relevant international relations may be understood on a spectrum between peaceful interaction at one end, and the breakdown in such relations at the other end (in situations such as war). In the panel's view, an emergency in international relations was closer to a breakdown in such relations.

Evidence showed the United States and other members were highly concerned about the human rights situation in Hong Kong, China. The panel applied this interpretation to the facts at hand and concluded that the situation was not serious enough to constitute an emergency in international relations that would justify taking actions inconsistent with obligations under GATT 1994.

The panel exercised judicial economy with respect to Hong Kong, China's claims under Article I:1 of GATT 1994, Article 2.1 of the TBT Agreement, and Articles 2(c) and 2(d) of the Agreement on Rules of Origin. With respect to Article I:1 of GATT 1994 and Article 2.1 of the TBT Agreement, the panel did not consider that additional findings on a most-favored-nation status violation would be necessary to assist the DSB in making sufficiently precise recommendations and rulings. The panel's conclusion on exercising judicial economy on the claims under the Agreement on Rules of Origin was grounded on the factual finding that the United States determines the origin of the products to be "Hong Kong, China," and not "China." This meant that the factual basis for contending that the dispute involved "rules of origin" within the meaning of the Agreement on Rules of Origin was incorrect.

Response to the WTO Panel Report

On January 26, 2023, the United States notified the DSB of its decision to appeal to the Appellate Body certain issues of law and legal interpretations in the panel report. At the WTO Dispute Settlement Body meeting that month, Ambassador María Pagán emphasized "the serious consequences of the flawed interpretation of Article XXI of the GATT 1994 in the *US – Origin Marking Requirements* panel report." She highlighted that the U.S. actions concerning Hong Kong, China, were based on "well-grounded determinations implicating U.S. essential security interests relating to democracy and human rights." Pagán further cited China's actions in Hong Kong, which have increasingly denied autonomy and freedoms to the Hong Kong people, as the key concern. The U.S. Delegation announced that "the United States cannot support adoption of this fundamentally flawed and deeply concerning report, which would only further undermine the WTO."⁴⁷¹

On February 1, 2023, Hong Kong, China, informed the DSB that it had taken note of the U.S. notification of its appeal. Also, given the current nonoperational situation of the Appellate Body, it considered that all subsequent procedural deadlines set out in the Appellate Body's Working Procedures were suspended. Hong Kong, China, also noted that the United States did not file an appellant submission in accordance with Rule 21(1) of the Appellate Body's Working Procedures. Hong Kong, China, further indicated that it reserved its full right to file its own appeal on issues of law and legal interpretation in

⁴⁷¹ USTR, "Statements by the United States at the Meeting of the WTO Dispute Settlement Body," January 27, 2023.

the panel report and to respond to the U.S. appeal, and that it would await the instructions of the Appellate Body in this respect.

Disputes in which Complaints Were Withdrawn and the Dispute Terminated⁴⁷²

DS548: United States—Certain Measures on Steel and Aluminum Products

In this dispute, the EU requested consultations on June 1, 2018, claiming that certain measures imposed by the United States to adjust imports of steel and aluminum into the United States appear to be inconsistent with certain articles of the Agreement on Safeguards, certain articles of GATT 1994, and Article XVI:4 of the WTO Agreement. At the request of the EU, the DSB established a panel on November 21, 2018, and the Director-General composed the panel on January 25, 2019. On February 4, 2021, the chair of the panel informed the DSB that, due to delays caused by the COVID-19 pandemic, the panel expected to issue its final report to the parties no earlier than the second half of 2021.⁴⁷³

On November 8, 2021, the chair of the panel informed the DSB that the panel had granted the EU's request that the panel suspend its work and that the United States had agreed. On January 17, 2022, the United States and the EU notified the DSB that they were terminating the dispute before the panel pursuant to the DSU in light of agreed procedures for arbitration under Article 25 of the DSU. On January 20, 2022, the chair of the panel informed the DSU that it had received a communication from the EU, dated January 17, 2022, notifying the withdrawal of the complaint and that the panel had accordingly ceased all work in the proceedings. On January 20, 2022, the arbitrator panel was composed and included the same persons who served as members of the panel. As provided in the parties' communication of January 17, 2022, the arbitration was suspended.⁴⁷⁴

⁴⁷² In addition to the disputes in the section below, on June 22, 2023, during the visit of Indian President Narendra Modi, the U.S. Trade Representative announced the resolution of six disputes between the United States and India. These included three disputes initiated by India and three disputes initiated by the United States:

- *United States—Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436);
- *India—Certain Measures Relating to Solar Cells and Solar Modules* (DS456);
- *United States—Certain Measures Relating to the Renewable Energy Sector* (DS510);
- *India—Export Related Measures* (DS541);
- *United States—Certain Measures on Steel and Aluminum Products* (DS547); and
- *India—Additional Duties on Certain Products from the United States* (DS585).

See USTR, "United States Announces Resolution on Trade Issues with India," June 22, 2023.

⁴⁷³ WTO, "DS548: United States," accessed June 13, 2023.

⁴⁷⁴ WTO, "DS548: United States," accessed June 13, 2023.

Chapter 4

Selected Regional and Bilateral Activities

This chapter summarizes trade-related activities during 2022 in two major multilateral organizations: the Organisation for Economic Co-operation and Development (OECD) and the Asia-Pacific Economic Cooperation forum (APEC). It also covers the activities conducted under U.S. Trade and Investment Framework Agreements (TIFAs) and summarizes other U.S. trade initiatives currently under negotiation.

Organisation for Economic Co-Operation and Development

Background

Established in 1961, the OECD is a multilateral organization aimed at shaping “policies that foster prosperity, equality, opportunity and well-being for all.”⁴⁷⁵ The OECD serves as an international forum and a knowledge hub, producing data and analyses, enabling member countries to share experience and best practices, and providing advice on public policy and international standard-setting.⁴⁷⁶ Collaborating closely with the Group of Seven (G7) and the Group of Twenty (G20), the OECD focuses on finding multilateral solutions to a range of global economic, social, and environmental challenges.⁴⁷⁷

At the end of 2022, the OECD members included, in total, 38 middle- and high-income countries.⁴⁷⁸ On January 25, 2022, the OECD Council decided to open accession discussions with six candidate countries to OECD membership—Argentina, Brazil, Bulgaria, Croatia, Peru, and Romania.⁴⁷⁹ The OECD also works closely with some of the world’s largest economies designated as “OECD Key Partners,” including Brazil, China, India, Indonesia, and South Africa. Although OECD Key Partners are not OECD members, they participate in OECD policy discussions and surveys and are included in the OECD statistical databases.⁴⁸⁰

The OECD organizational structure consists of the OECD Council, Committees, and the Secretariat that comprises 12 substantive directorates. The OECD Council is the overarching decision-making body. It convenes the annual Ministerial Council Meeting to set priorities, discuss the global economic and trade environment, and agree on issues such as the OECD budget or the accession process. The OECD

⁴⁷⁵ OECD, “About: Who We Are,” accessed April 27, 2023; OECD, “OECD 60th Anniversary: A Brief History,” accessed April 28, 2023.

⁴⁷⁶ OECD, “About: How We Work,” accessed April 27, 2023; OECD, “About: Who We Are,” accessed April 27, 2023.

⁴⁷⁷ The G7 is an intergovernmental organization consisting of Canada, France, Germany, Italy, Japan, the UK, and the United States, as well as the EU. Please see chapter 2 of this report for the definition of the G20. OECD, “About: How We Work,” accessed April 27, 2023; G20, “About G20,” accessed April 27, 2023; G7 Germany 2022, “The Group of Seven: Members,” accessed April 27, 2023.

⁴⁷⁸ OECD, “About: Our Global Reach,” accessed April 28, 2023.

⁴⁷⁹ OECD, “Accession to the Organisation,” accessed May 1, 2023.

⁴⁸⁰ OECD, “About: Our Global Reach,” accessed April 28, 2023.

Secretariat is led by the Secretary-General and it carries out work through more than 300 committees, expert groups, and working groups. Such work covers a broad set of policy making areas, such as trade facilitation, agriculture and fisheries, education, public governance, green growth and sustainable development, regulatory reform, science and technology, and international taxation.⁴⁸¹ The Trade and Agriculture Directorate is the substantive department of the OECD tasked with providing policy analysis and advice to governments regarding trade, agriculture, and fisheries policies for more inclusive and sustainable growth. The Directorate works with member governments through three principal committees, including the OECD Committee for Agriculture, the OECD Committee for Fisheries, and the OECD Trade Committee.⁴⁸²

OECD Developments in 2022

OECD Ministerial Council Meeting

The OECD Ministerial Council Meeting, chaired by Italy, convened in Paris June 9–10, 2022, under the theme, “The Future We Want: Better Policies for the Next Generation and a Sustainable Transition.”⁴⁸³ Building on the outcomes of the 2021 Ministerial Council Meeting and the G20 Rome Summit, the 2022 Ministerial Council Meeting discussions covered such topics as the international cooperation and coordination needed to build a better future for and with youth; addressing economic and other consequences of Russia’s aggression in a post-pandemic world; strengthening pandemic prevention, preparedness, and response; enhancing the OECD’s dialogue with the African region; energy outlook with a focus on Africa; and strengthening gender equality.⁴⁸⁴ The ministers also discussed policies for trade and environmental sustainability, as well as an update on the ongoing negotiations on international tax regime reform that the OECD has been leading.⁴⁸⁵

In the 2022 Ministerial Council Statement, ministers condemned Russia’s aggression against Ukraine and noted that the Council had suspended Russia and Belarus from participating in OECD bodies.⁴⁸⁶ The ministers encouraged the OECD to continue the analyses of the economic, environmental, and social repercussions of the war and welcomed the establishment of the OECD Kyiv Office. The ministers called on all partners to refrain from imposing export restrictions on agricultural products, given the rising crisis of food insecurity amid the tense geopolitical situation. Ministers noted that avoiding protectionism would be critical for alleviating shortages of food, minerals, energy, and other essential

⁴⁸¹ OECD, “Organisational Structure,” accessed April 28, 2023; OECD, “About: How We Work,” accessed April 27, 2023.

⁴⁸² OECD, “About the Trade and Agriculture Directorate,” accessed May 9, 2023.

⁴⁸³ OECD, “Meeting of the OECD Council at Ministerial Level 2022,” accessed April 28, 2023. USTR Tai traveled to Paris to participate in the 2022 Ministerial Council Meeting; additionally, on June 11, 2022, she joined a meeting with trade ministers to discuss the Indo-Pacific Economic Framework and the Biden Administration’s ongoing economic engagement in the region. USTR, “Ambassador Katherine Tai to Travel to France and Switzerland,” June 6, 2022.

⁴⁸⁴ OECD, “OECD Ministerial Council Meeting 2022 Agenda,” accessed May 1, 2023.

⁴⁸⁵ OECD, “OECD Ministerial Council Meeting 2022 Agenda,” accessed May 1, 2023. For more information, see the “OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting” section below.

⁴⁸⁶ The OECD Council suspended the participation of Russia and Belarus in OECD bodies on March 8, 2022, in response to Russia’s aggression against Ukraine. OECD, “Statement from OECD Secretary-General on Further Measures,” March 8, 2022.

goods and for keeping global value chains open. Regarding the need to ensure energy and food security, sustainability, and affordability, ministers stated their intent to diversify energy sources and minimize dependence on Russia for key imports.⁴⁸⁷

Furthermore, ministers affirmed their commitment to well-functioning, fair, and open global markets and to building a global level playing field supported by the rules-based multilateral trading system. They affirmed their support for the ongoing work on trade and environment at the World Trade Organization (WTO). They also committed to reinforcing the OECD's own work on the intersection of trade, investment, and environment, with a focus on enhancing the sustainability, diversification, flexibility, and resilience of global and regional supply chains. With regard to digital transformation, ministers committed to continuing the implementation of the OECD Recommendation on Artificial Intelligence,⁴⁸⁸ as well as the development of governance frameworks for data.⁴⁸⁹

Regarding the OECD's enlargement process, ministers welcomed the adoption of Accession Roadmaps for Brazil, Bulgaria, Croatia, Peru, and Romania.⁴⁹⁰ Additionally, ministers reaffirmed the strategic priority of Southeast Asia to the OECD, as well as their commitment to the United Nations' 2030 Agenda for Sustainable Development.⁴⁹¹ Furthermore, the 2022 Ministerial Council Meeting adopted eight recommendations of the Council, including on "Foreign Direct Investment Qualities for Sustainable Development."⁴⁹²

OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting

The OECD, in partnership with the G20, has continued working on developing a multilateral solution under the OECD/G20 Base Erosion and Profit Shifting (BEPS) Project and the OECD/G20 Inclusive Framework on BEPS (the Inclusive Framework).⁴⁹³ The OECD launched the BEPS Project in partnership with the G20 in 2013 to address tax avoidance, improve the coherence of international tax rules, and ensure a more transparent tax environment. According to OECD, BEPS practices cost countries between \$100 billion and \$240 billion in lost tax revenue annually.⁴⁹⁴

⁴⁸⁷ OECD, "2022 Ministerial Council Statement," June 2022, 3.

⁴⁸⁸ The OECD Recommendation on Artificial Intelligence (AI) provides a set of internationally agreed principles and recommendations intended to promote an AI-powered crisis response. OECD, "Recommendation of the Council on Artificial Intelligence," May 2019.

⁴⁸⁹ OECD, "2022 Ministerial Council Statement," June 2022, 5.

⁴⁹⁰ OECD, "Accession to the Organisation," accessed May 1, 2023. At the time of writing of this report, the Accession Roadmap for Argentina had not yet been adopted.

⁴⁹¹ OECD, "2022 Ministerial Council Statement," June 2022, 2.

⁴⁹² OECD, "2022 Ministerial Council Statement," June 2022, 7.

⁴⁹³ BEPS refers to tax planning strategies used by multinational enterprises that use gaps and mismatches in tax rules to avoid paying taxes, e.g., by artificially shifting profits from countries where their activities are located to jurisdictions with low or zero tax rates. OECD, "What is BEPS?," accessed May 4, 2023. For more information on the OECD/G20 BEPS Project, the OECD/G20 Inclusive Framework on BEPS, and the challenges of digitalization for the global tax system, see USITC, *The Year in Trade 2020*, September 2021, 112–14; and USITC, *The Year in Trade 2021*, August 2022, 129–30.

⁴⁹⁴ OECD, "BEPS: Understanding Tax Avoidance," accessed May 4, 2023.

In December 2022, the OECD announced that Azerbaijan joined the Inclusive Framework, bringing the total number of its members to 142 OECD and non-OECD countries and jurisdictions.⁴⁹⁵ The Inclusive Framework members collaborate on the implementation of the BEPS package of 15 actions and work to address the tax challenges arising from the digitalization and globalization of the economy. In particular, Action 1 is concerned with “Tax Challenges Arising from Digitalisation,” which has been the key area of focus of the BEPS Project since its inception.⁴⁹⁶

As of December 16, 2022, 138 member countries and jurisdictions had joined the agreement reached in October 2021 — “Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy” (hereunder, Two-Pillar Solution or the Statement). Notably, not all Inclusive Framework members had joined the Statement as of the date above.⁴⁹⁷ Similar to other international standards established by the OECD, commitment to the Two-Pillar Solution implies the obligation to implement its provisions. The implementation process is monitored by the Inclusive Framework. Each pillar deals with a different gap in the existing rules exploited by multinational enterprises (MNEs) to avoid paying taxes.

Pillar One, “Re-allocation of Taxing Rights,” applies to the largest and most profitable MNEs (approximately 100 entities), including digital companies. It seeks to reallocate part of such MNEs’ profit from their home countries to the jurisdictions where they have business activities (e.g., selling products or providing services to their consumers), regardless of whether these firms have a physical presence in the same jurisdictions. Pillar One reflects a multilateral effort to ensure a fairer distribution of profits and taxing rights among countries with respect to the largest MNEs.⁴⁹⁸ According to OECD estimates, under Pillar One, taxing rights on profits exceeding \$125 billion are expected to be reallocated to relevant market jurisdictions each year.⁴⁹⁹ As of the writing of this report, technical work on the application of Pillar One was still underway, aiming to finalize a new Multilateral Convention or entry into force in 2024.⁵⁰⁰

Pillar Two, “Global Anti-Base Erosion Mechanism,” applies to a much larger group of MNEs (specifically, any MNE with annual revenue more than €750 million (equivalent of \$790 million in 2022) and sets out rules regarding a global minimum corporate income tax of 15 percent on profits. Therefore, Pillar Two seeks to limit competition among countries to lower their corporate income tax levels, help countries protect their tax bases, and address the issue of MNEs paying a relatively low effective tax rate.⁵⁰¹ In December 2021, the OECD published the Global Anti-Base Erosion Model (GloBE) Rules, describing the scope and operative provisions and providing relevant definitions.⁵⁰² GloBE Rules envision a coordinated system of taxation that imposes a top-up tax on profits arising in a jurisdiction whenever the effective

⁴⁹⁵ OECD, “Members of the OECD/G20 Inclusive Framework on BEPS,” December 2022; OECD, “Azerbaijan Joins the Inclusive Framework on BEPS,” accessed May 4, 2023.

⁴⁹⁶ OECD, “BEPS: Action 1 - OECD BEPS,” accessed May 4, 2023.

⁴⁹⁷ OECD, “Members of the OECD/G20 IF on BEPS Joining,” December 2022; OECD, “Statement on a Two-Pillar Solution,” October 2021.

⁴⁹⁸ OECD, “BEPS: Action 1 - OECD BEPS,” accessed May 4, 2023.

⁴⁹⁹ OECD, “Two-Pillar Solution to Address the Tax Challenges,” July 2022; OECD, “BEPS: Action 1 - OECD BEPS,” accessed May 4, 2023; OECD, “OECD/G20 Inclusive Framework on BEPS,” 2022.

⁵⁰⁰ OECD, “International Tax Reform: OECD Releases Technical Guidance,” February 2, 2023.

⁵⁰¹ OECD, “Two-Pillar Solution to Address the Tax Challenges,” July 2022; OECD, “BEPS: Action 1 - OECD BEPS,” accessed May 4, 2023; OECD, “OECD/G20 Inclusive Framework on BEPS,” 2022.

⁵⁰² OECD, “Global Anti-Base Erosion Model Rules (Pillar Two),” December 2021.

tax rate is below the minimum rate.⁵⁰³ According to the OECD, the global minimum corporate income tax under Pillar Two is estimated to generate approximately \$150 billion in global tax revenues annually.⁵⁰⁴ Regarding updated implementation timelines, as of the writing of this report, the OECD aims for the global minimum corporate tax rules to take effect in 2024.⁵⁰⁵

Over the course of 2022, the OECD continued developing various design and practical implementation aspects of the Two-Pillar Solution. In March 2022, the OECD issued “Tax Challenges Arising from the Digitalisation of the Economy—Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two).”⁵⁰⁶ The commentary clarifies the meaning of certain terms and provides guidance on the interpretation and application of GloBE Rules to facilitate common understanding and coordinated outcomes for both tax authorities and MNEs. Furthermore, to refine numerous complex issues relating to Pillar One and Pillar Two design elements and application aspects, the OECD conducted several public consultations.⁵⁰⁷

OECD’s Trade and Agriculture Directorate Highlights

In 2022, amid new disruptions to trade flows caused by Russia’s invasion of Ukraine, the Directorate witnessed a heightened interest in supply chain resilience, particularly for the raw materials needed to achieve a green transition. Accordingly, the Directorate focused on the analysis of export restrictions and trade in industrial raw materials. For example, the Directorate developed new empirical work on supply chain dependencies that supported G7 deliberations. Furthermore, the Directorate organized an ad hoc OECD Chief Trade and Agriculture Economists Conference to share insights and best practices in the assessment of supply chain vulnerabilities and resilience.⁵⁰⁸

The Directorate also examined the role of sustainability standards and due diligence requirements to support supply chain resilience and sustainability. Additionally, the Directorate conducted country-level analyses in new areas of work; for example, the first “Trade and Gender Review” focused on New Zealand and the first “Digital Trade Review” focused on Brazil. The Directorate also expanded its work on the Asia-Pacific region and published the “ESCAP-OECD Asia-Pacific Digital Trade Regulatory Review.”⁵⁰⁹ Its publications, “The Case for the E-Commerce Moratorium” (May 2022) and “Eliminating Government Support to Illegal, Unreported and Unregulated Fishing” (June 2022), were among contributions to WTO discussion topics.⁵¹⁰

In partnership with WTO, World Bank, and International Monetary Fund colleagues, the Directorate collaborated on an interagency publication, “Subsidies, Trade, and International Cooperation.” The paper finds that subsidies appear to be globally widespread, growing, and often poorly targeted to meet their policy objectives. The paper recommends that governments “work expeditiously to clarify and

⁵⁰³ OECD, “Global Anti-Base Erosion Model Rules (Pillar Two),” December 2021, 7.

⁵⁰⁴ OECD, “BEPS: Action 1 - OECD BEPS,” accessed May 4, 2023.

⁵⁰⁵ OECD, “International Tax Reform: OECD Releases Technical Guidance,” February 2, 2023.

⁵⁰⁶ OECD, “Tax Challenges Arising from the Digitalisation of the Economy,” 2022.

⁵⁰⁷ OECD, “Past Public Consultations - 2022,” accessed November 6, 2023.

⁵⁰⁸ Jansen, Marion, OECD, “2022: A Year in Review,” December 17, 2022.

⁵⁰⁹ ESCAP, OECD, “Asia-Pacific Digital Trade Regulatory Review 2022,” 2022.

⁵¹⁰ Jansen, Marion, OECD, “2022: A Year in Review,” December 17, 2022; OECD, “The Case for the E-Commerce Moratorium,” May 2022; Delpeuch, Migliaccio, and Symes, *Eliminating Government Support to Illegal, Unreported and Unregulated Fishing*, June 2022.

strengthen international disciplines around subsidies while recognizing the important roles that well-designed subsidies can play in some circumstances.”⁵¹¹

Asia-Pacific Economic Cooperation

Background

APEC is a regional economic and trade forum established in 1989 and composed of 21 member economies.⁵¹² Its primary goal is to “create greater prosperity for the people of the region by promoting balanced, inclusive, sustainable, innovative and secure growth and by accelerating regional economic integration.”⁵¹³ As a group, APEC economies account for approximately 38 percent of the global population, 62 percent of gross domestic product, and 48 percent of trade.⁵¹⁴ APEC operates as a cooperative, multilateral forum that promotes open dialogue on economic and trade issues. APEC’s decision-making process is based on consensus, without binding commitments or treaty obligations. Member economies undertake commitments on a voluntary basis; APEC provides support such as capacity building to help its members implement APEC initiatives.⁵¹⁵

APEC functions on a two-level operational structure. At the policy level, APEC economic leaders and ministers meet annually to provide policy direction and set the vision for overarching goals and initiatives. At the working level, four core committees, including the Committee on Trade and Investment and its subsidiary bodies, implement initiatives and carry out activities.⁵¹⁶ The APEC Secretariat operates as the core support mechanism for the APEC process. It administers the budget and performs a central project management role, overseeing APEC-funded projects.⁵¹⁷

Every year, 1 of the 21 APEC member economies hosts APEC meetings and serves as the APEC chair.⁵¹⁸ In 2022, Thailand was the APEC chair.⁵¹⁹ The United States chairs APEC in 2023.⁵²⁰

APEC Developments in 2022

APEC Themes and Priorities

As the world economy continued to recover from the COVID-19 pandemic in 2022, APEC economies worked to reopen, reconnect, and rebalance the region. Accordingly, under Thailand’s leadership in 2022, APEC adopted the theme “Open. Connect. Balance.” with the following three policy priorities: (1)

⁵¹¹ IMF, OECD, World Bank, WTO, Subsidies, Trade, and International Cooperation, 2022, 30.

⁵¹² In 2022, the 21 APEC member economies were Australia, Brunei, Canada, Chile, China, Hong Kong, Indonesia, Japan, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, the Philippines, Russia, Singapore, South Korea, Taiwan, Thailand, the United States, and Vietnam. APEC, “About APEC,” September 2021.

⁵¹³ APEC, “About APEC,” September 2021.

⁵¹⁴ APEC Secretariat, “APEC Outcomes and Outlook 2022-2023,” 2023, 12.

⁵¹⁵ APEC, “About APEC,” September 2021.

⁵¹⁶ APEC, “About APEC,” September 2021.

⁵¹⁷ APEC, “APEC Secretariat,” September 2021.

⁵¹⁸ APEC, “How APEC Operates,” accessed May 1, 2023.

⁵¹⁹ APEC, “2022 APEC Ministerial Meeting,” October 18, 2022.

⁵²⁰ USDOS, “Asia-Pacific Economic Cooperation,” accessed July 17, 2023.

promote trade and investment that is open to all opportunities, (2) reconnect the region in all dimensions, and (3) drive APEC toward balanced, inclusive, and sustainable growth.⁵²¹

APEC's activities in 2022 covered revitalization of discussions on the Free Trade Area of the Asia-Pacific (FTAAP) agenda, incorporating such issues as health, environment, and digitalization into the FTAAP agenda discussion. Also, APEC focused on support for the multilateral trading system, including the WTO's 12th Ministerial Conference (MC12), held in June 2022.⁵²² APEC acknowledged that disrupted connectivity remained a pressing issue in the region three years into the pandemic and APEC economies focused on restoring connectivity. Against the backdrop of COVID-19 pandemic-related effects and persisting environmental challenges, APEC integrated inclusivity and sustainability objectives in its activities in tandem with economic goals.

APEC Economic Leaders Meeting

The 2022 APEC Economic Leaders Meeting took place on November 18–19, 2022, in Bangkok.⁵²³ Representatives from all 21 APEC member countries, including U.S. Vice President Kamala Harris, attended the meeting in person.⁵²⁴ Vice President Harris stated, "Our host year [2023] will demonstrate the enduring economic commitment of the United States to the Indo-Pacific." U.S. Secretary of State Antony Blinken and U.S. Trade Representative (USTR) Katherine Tai joined their counterparts in issuing a consensus joint ministerial statement.⁵²⁵

The leaders reaffirmed their commitment to continue implementing APEC's Putrajaya Vision of "an open, dynamic, resilient and peaceful Asia-Pacific community by 2040," including through the Aotearoa Plan of Action.⁵²⁶ Adopted at the 2020 APEC Leaders Meeting hosted by Malaysia, the Putrajaya Vision 2040 provides an overarching framework for APEC's work under three economic drivers: (1) trade and investment; (2) innovation and digitalization; and (3) strong, balanced, secure, sustainable, and inclusive growth.⁵²⁷ The leaders endorsed a consensus declaration as well as the Bangkok Goals on Bio-Circular-Green Economy, recognizing the need for an inclusive and sustainable post-pandemic recovery, as well as the need to address adverse effects of climate change and other environmental challenges.⁵²⁸

In their consensus declaration, the leaders also highlighted their intensified efforts in responding to the COVID-19 pandemic and mitigating its adverse effects on the region.⁵²⁹ They stated Russia's invasion of

⁵²¹ APEC, "2022 APEC Ministerial Meeting," October 18, 2022.

⁵²² APEC, The APEC Committee on Trade and Investment: 2022, November 2022, i; APEC Secretariat, "APEC Outcomes and Outlook 2022-2023," 2023, 19.

⁵²³ This section mainly draws on the Asia-Pacific Economic Cooperation (APEC), "2022 Leaders' Declaration," accessed May 1, 2023.

⁵²⁴ At the meeting, Vice President Harris previewed U.S. goals for hosting APEC in 2023 and announced San Francisco as the site of the 2023 APEC Economic Leaders' Meeting in November 2023. White House, "Statement by Vice President Kamala Harris on Selection," November 18, 2022; USDOS, "U.S. APEC 2022 Outcomes," November 19, 2022.

⁵²⁵ USDOS, "U.S. APEC 2022 Outcomes," November 19, 2022.

⁵²⁶ The Aotearoa Plan of Action, adopted at the 2021 APEC Leaders Meeting hosted by New Zealand, is a plan for implementing the Putrajaya Vision 2040. For more information, see USITC, *Year in Trade 2021*, August 2022, 131.

⁵²⁷ APEC, "APEC Putrajaya Vision 2040," accessed May 2, 2023.

⁵²⁸ APEC, "2022 Leaders' Declaration," October 19, 2022.

⁵²⁹ APEC, "2022 Leaders' Declaration," October 19, 2022.

Ukraine exacerbated the pandemic's adverse effects on the global economy, constraining growth, increasing inflation, disrupting supply chains, heightening energy and food insecurity, and elevating financial stability risks.⁵³⁰

Further, in their consensus declaration, the leaders underscored the importance of international trade and the WTO in facilitating global economic recovery and growth; welcomed the advancement of the FTAAP agenda in 2022; and declared their priority to drive growth-focused structural reform that is designed to be inclusive, sustainable, and friendly to innovation. Furthermore, the leaders acknowledged the urgency of enhancing the competitiveness of the services sector, specifically, travel, transport, and other services that have been hit hardest by the COVID-19 pandemic.⁵³¹ They declared their commitment to (1) enhance an open and interconnected Asia-Pacific region, including through the implementation of the APEC Connectivity Blueprint (2015–25); (2) strengthen physical, institutional, and people-to-people connectivity as well as taking advantage of digital connectivity; and (3) intensify efforts to promote regional, subregional, and remote area connectivity through quality infrastructure development and investment.⁵³² The leaders welcomed the endorsement of Phase Three of the Supply Chain Connectivity Framework Action Plan by the APEC ministers.⁵³³

APEC Committee on Trade and Investment Highlights

In 2022, the APEC Committee on Trade and Investment (CTI) continued to advance work on multiple trade- and investment-related issues. Notably, the CTI's stated priority areas include providing support for the multilateral trading system; advancing regional economic integration, including on the FTAAP Agenda; facilitating trade and strengthening connectivity and infrastructure; promoting innovative development and inclusive approaches; and engaging with the business sector and industry dialogues.⁵³⁴ During 2022, the CTI continued to work on its declared priorities and toward achieving, on a strategic level, APEC's Putrajaya Vision 2040 through the Aotearoa Plan of Action.⁵³⁵ Furthermore, building on the directives from the APEC leaders, the CTI also worked to address issues around lingering COVID-19 pandemic-related challenges, including in the area of the movement of essential goods.⁵³⁶ Reflecting the

⁵³⁰ APEC, "2022 Leaders' Declaration," October 19, 2022.

⁵³¹ APEC, "2022 Leaders' Declaration," October 19, 2022.

⁵³² The APEC Connectivity Blueprint for 2015–25 seeks to achieve a comprehensively connected and integrated Asia-Pacific through the pillars of Physical Connectivity, Institutional Connectivity and People-to-People Connectivity. For example, under the People-to-People Connectivity pillar, APEC is committed to facilitate the movement of people across borders and the exchange of innovative ideas, addressing issues in business travel mobility, cross-border education, tourism facilitation, and skilled labor mobility. For more information, see APEC, "APEC Connectivity Blueprint for 2015–2025," accessed June 22, 2023.

⁵³³ APEC endorsed the Supply-Chain Connectivity Framework Action Plan (SCFAP) in 2009 with eight chokepoints and a target of 10 percent reduction in time, trade costs across supply chains, and uncertainty in supply-chain performance by 2015. Following the review of the SCFAP I, the SCFAP II was launched in 2017 with five chokepoints and a goal to reduce trade costs, improve supply chain reliability, and support competitiveness. In August 2022, the APEC ministers endorsed Phase Three of the Supply-Chain Connectivity Framework Action Plan 2022–2026 (SCFAP III). For more information, see APEC, Phase III of Supply-Chain Connectivity Framework Action Plan, August 2022; USITC, Year in Trade 2021, August 2022, 132–33.

⁵³⁴ APEC, "APEC Committee on Trade and Investment," accessed May 10, 2023.

⁵³⁵ APEC, The APEC Committee on Trade and Investment: 2022, November 2022, 1.

⁵³⁶ APEC, The APEC Committee on Trade and Investment: 2022, November 2022, i.

growing body of work, the number of projects proposed in the CTI increased by 50 percent in 2022, even though many projects did not achieve a consensus from all economies.⁵³⁷

In its 2022 annual report to ministers, the CTI highlighted its key activities carried out under seven work streams: (1) support for the multilateral trading system; (2) advancing economic integration in the region; (3) trade facilitation, connectivity, digitalization, and innovation; (4) inclusion and sustainability issues; (5) responses to the COVID-19 pandemic;⁵³⁸ (6) engagement with the business sector and industry dialogues; and (7) governance.⁵³⁹ Selected key highlights from the CTI’s 2022 activities are presented below.

Support for the multilateral trading system. In the context of MC12, the CTI worked on supporting the implementation of MC12 outcomes. Support involved incubating ideas on evolving issues such as environmental sustainability, implementing existing commitments such as the Trade Facilitation Agreement, and trying to build consensus on outstanding issues ahead of the next WTO Ministerial meeting, MC13, scheduled for February 2024.⁵⁴⁰

Advancing economic integration in the region. The CTI-initiated conversation on the FTAAP agenda drew on lessons learned from the COVID-19 pandemic. A virtual session held in March 2022 involved the APEC Business Advisory Council, which has frequently offered advice on the FTAAP agenda.⁵⁴¹ In May 2022, the CTI endorsed the following two U.S.-led self-funded projects:

- “FTAAP Work Program: Multi-stakeholder Engagement Approaches for Trade Agreement Development” aims to support APEC economies in strengthening their approaches, procedures, and other consultative mechanisms in accordance with their laws and regulations, including stakeholder perspectives in the design of trade agreements.
- “FTAAP Work Program on APEC Efforts to Address Inclusion in Trade Agreements” seeks to build the capacity of APEC economies to participate in comprehensive trade agreements.

Trade facilitation, connectivity, digitalization, and innovation. The CTI worked on reducing the costs of doing business across borders, such as accelerating the digitalization of border paperwork.⁵⁴² Furthermore, in August 2022, the APEC ministers endorsed Phase Three of the Supply-Chain Connectivity Framework Action Plan 2022–2026 (SCFAP III).⁵⁴³ This phase aims to support businesses in building secure, resilient, sustainable, and open supply chains that create a predictable, competitive, and digitally interconnected Asia-Pacific region.

⁵³⁷ For project examples, see “Advancing Economic Integration in the Region” section below.

⁵³⁸ The work in this area included: (1) review of declaration on facilitating the movement of essential goods by the APEC ministers responsible for trade; and (2) review of the 2021 APEC ministers responsible for trade statement on COVID-19 vaccine supply chains.

⁵³⁹ APEC, *The APEC Committee on Trade and Investment: 2022*, November 2022, 1–2.

⁵⁴⁰ The CTI agreed to launch a transparency exercise, tracking the status of APEC members’ acceptance of the WTO Agreement on Fisheries Subsidies from 2023. APEC, *The APEC Committee on Trade and Investment: 2022*, November 2022, 4.

⁵⁴¹ The APEC Business Advisory Council was created by the APEC Economic Leaders in November 1995 to provide the business perspective on specific areas of cooperation to APEC Leaders, Ministers and Senior Officials. APEC, “The APEC Business Advisory Council,” accessed May 10, 2023.

⁵⁴² APEC, *The APEC Committee on Trade and Investment: 2022*, November 2022, i, 11.

⁵⁴³ APEC, *Phase III of Supply-Chain Connectivity Framework Action Plan*, August 2022.

In April 2022, the United States led a Trade Policy Dialogue on Digital Trade in virtual format.⁵⁴⁴ Such dialogues have been held since 2016, bringing together APEC government officials to discuss common issues related to digital trade, explore emerging policy topics, and deepen an understanding of the opportunities to increase participation in the digital economy. The Trade Policy Dialogue on Digital Trade in 2022 examined key issues relating to cross-border data flows, including the linkages between cross-border data flows and the health sector, as well as data flow application in the manufacturing industries.

Sustainability and inclusion. During the past few years, the CTI has increasingly focused on sustainability and inclusion themes. This reflects the deeper global awareness and pressures regarding the need for international trade and investment policies to address environmental challenges and promote inclusive growth that benefits all societal groups. The Bio-Circular-Green Economy Model, promoted by Thailand as a new economic model for sustainable and inclusive growth, presented a framework to make progress on these issues. Notably, Thailand introduced the Bio-Circular-Green Economy concept into APEC discussions in 2022 as a comprehensive post-pandemic growth model, envisioning application of science, innovation, and technology to promote the efficient use of resources, maintain and restore world ecosystems, and reduce waste.⁵⁴⁵

Trade and Investment Framework Agreements

Trade and Investment Framework Agreements (TIFAs) provide strategic frameworks and principles for dialogue on trade and investment issues between the United States and its trade partners.⁵⁴⁶ TIFAs and related council meetings serve as a setting for the United States and other parties to discuss diverse issues of mutual interest (e.g., market access, labor, environment, intellectual property rights, and capacity building), with the objective of strengthening trade and investment ties.

The most recent TIFA was signed by the United States and Fiji in October 2020.⁵⁴⁷ In February 2022, the U.S.-Brazil Protocol Relating to Trade Rules and Transparency entered into force after being signed in October 2020. The Protocol modernizes the Agreement on Trade and Economic Cooperation, which went into effect in 2011.⁵⁴⁸ As of year-end 2022, the United States had entered into 60 TIFAs.⁵⁴⁹ For more information on the 2022 developments under other TIFAs, see table 4.1 below.

⁵⁴⁴ APEC, *The APEC Committee on Trade and Investment: 2022*, November 2022, 15.

⁵⁴⁵ APEC, *The APEC Committee on Trade and Investment: 2022*, November 2022, 17.

⁵⁴⁶ TIFAs may include agreements such as an Agreement on Trade and Economic Cooperation (ATEC), Trade and Investment Council Agreement (TIC), Trade and Investment Cooperation Forum (TICF), Trade and Investment Cooperation Agreement (TICA), Trade and Investment Cooperation Forum Agreement (TICFA), and Trade, Investment, and Development Agreement (TIDCA). All are considered TIFAs by USTR. USTR, “Trade & Investment Framework Agreements,” accessed May 4, 2023.

⁵⁴⁷ USITC, *The Year in Trade 2020*, September 2021, 118.

⁵⁴⁸ USTR, “U.S.-Brazil Protocol Enters into Force,” February 2, 2022.

⁵⁴⁹ USTR, “Trade & Investment Framework Agreements,” accessed May 4, 2023.

Table 4.1 U.S. trade and investment framework agreements (TIFAs) developments in 2022

ATEC = Agreement on Trade and Economic Cooperation; TIC = Trade and Investment Council; TICF = Trade and Investment Cooperation Forum; TICA = Trade and Investment Cooperation Agreement; TICFA = Trade and Investment Cooperation Forum Agreement.

Type and name	Date signed	2022 Development
U.S.-Algeria TIFA	July 13, 2001	In June 2022, the United States and Algeria held the first in-person meeting since 2019 under the TIFA.
U.S.-Argentina TIFA	March 23, 2016	In November 2022, the U.S.-Argentina Council on Trade and Investment, established under the TIFA, convened its third meeting—the first meeting since 2018. In addition, in December 2022, the Innovation and Creativity Forum for Economic Development, established under the TIFA, held its seventh meeting—the first in-person session since 2019.
U.S.-ASEAN TIFA	August 25, 2006	In March 2022, the United States and the Association of Southeast Asian Nations (ASEAN) organized the second U.S.-ASEAN Trade and Labor Dialogue.
U.S.-Bangladesh TICFA	November 25, 2013	In December 2022, the United States and Bangladesh convened the sixth meeting under the TICFA.
U.S.-Brazil ATEC	March 18, 2011	The U.S.-Brazil ATEC Protocol on Trade Rules and Transparency entered into force in February 2022. In March 2022, senior officials from the Office of the U.S. Trade Representative traveled to Brazil to discuss implementation of the Protocol.
U.S.-Cambodia TIFA	July 14, 2006	In 2022, the United States and Cambodia met regularly through the Labor Working Group, held under the TIFA.
U.S.-Central Asia TIFA	June 1, 2004	In 2022, the United States and Central Asian Ministries of Trade met through various working groups under the TIFA, including the customs, intellectual property, women’s economic empowerment, and sanitary and phytosanitary working groups. In addition, the inaugural meeting of the digital trade group was held in September 2022.
U.S.-Ecuador TIC	July 23, 1990	In February 2022, the United States and Ecuador met to discuss a wide range of issues as well and reviewed implementation of the Protocol on Trade Rules and Transparency. In addition, in November 2022, the two governments formed a new Fair Trade Working Group under the TIC.
U.S.-Egypt TIFA	July 1, 1999	In December 2022, the United States and Egypt held the first in-person meeting since 2019 under the TIFA.
U.S.-Paraguay TIFA	January 13, 2017	In September 2022, the United States and Paraguay convened the first meeting of the Trade and Investment Council under the TIFA.
U.S.-Philippines TIFA	November 9, 1989	In December 2022, the United States and the Philippines held an Agricultural Working Group meeting under the TIFA.
U.S.-Taiwan TIFA	September 19, 1994	In 2022, the United States and Taiwan convened meetings of several TIFA working groups, including the inaugural meeting of the new Labor Working Group, which focuses on worker-centered trade policy and cooperation on combating forced labor in global supply chains.
U.S.-Ukraine TICA	March 28, 2008	In November 2022, the United States and Ukraine held the 11th meeting of the TICA, at which the two governments announced the launch of negotiations to upgrade the TICA.
U.S.-Uruguay TIFA	January 25, 2007	In 2022, the United States and Uruguay continued negotiations on an update to the TIFA with a Protocol on Trade Rules and Transparency.

Sources: USTR, “Trade & Investment Framework Agreements,” accessed May 4, 2023; USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 62-75; U. S. Mission Argentina, “Third Meeting of the U.S.-Argentina Council on Trade and Investment,” December 6, 2022.

Note: The U.S.-ASEAN TIFA includes the United States and the 10 member countries of ASEAN: Brunei, Cambodia, Indonesia, Laos, Malaysia, Burma, the Philippines, Singapore, Thailand, and Vietnam. The U.S.-Central Asia TIFA includes the United States, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

Other Trade Initiatives under Negotiation

This section covers negotiations on other bilateral and regional trade initiatives, including the ongoing negotiations on the Indo-Pacific Economic Framework for Prosperity (IPEF), the United States-Taiwan Initiative on 21st Century Trade (U.S.-Taiwan Initiative), and the United States-Kenya Strategic Trade and Investment Partnership (STIP), among others.

Indo-Pacific Economic Framework for Prosperity

The United States launched the Indo-Pacific Economic Framework for Prosperity (IPEF) with Australia, Brunei Darussalam, India, Indonesia, Japan, South Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, and Vietnam on May 23, 2022, with Fiji signing on days later.⁵⁵⁰ The IPEF comprises four pillars—trade, supply chains, clean economy, and fair economy—that aim to promote sustainable and inclusive economic growth, cooperation, and peace within the region (see below for description of the pillars). Members have committed to collaborate and use technical assistance and capacity building to achieve the IPEF goals.⁵⁵¹ IPEF members are not required to join all four pillars; though, as of December 2022, all members were participating fully, with the exception of India, which abstained from the trade pillar.⁵⁵²

Various U.S. government representatives stated that the IPEF is a new model for economic engagement, trade, and supply chains and that the framework is a model for engagement with the rest of the world.⁵⁵³ U.S. government representatives also indicated that the IPEF is not intended to be a traditional free trade agreement and it lacks a tariff component.⁵⁵⁴ Representatives indicate that the four IPEF pillars are intended to form the basis of the U.S. economic strategy in the region and are designed to be flexible enough to accommodate various member countries with diverse economic backgrounds.⁵⁵⁵ The negotiating goals of the four pillars were released after a September 2022 ministerial meeting.⁵⁵⁶ The

⁵⁵⁰ Canada indicated they will seek membership in the IPEF but have not joined as of October 24, 2023. The Biden administration first announced the framework in October 2021. White House, “Statement on Indo-Pacific Economic Framework for Prosperity,” May 23, 2022; White House, “Statement by National Security Advisor Jake Sullivan,” May 26, 2022; Reuters, “Canada to Seek Membership to Indo-Pacific Economic Framework,” October 27, 2022; USTR, “Indo-Pacific Economic Framework for Prosperity (IPEF),” accessed May 3, 2023.

⁵⁵¹ USTR, “Indo-Pacific Economic Framework for Prosperity (IPEF),” accessed May 3, 2023; White House, “Statement on Indo-Pacific Economic Framework for Prosperity,” May 23, 2022.

⁵⁵² USTR, “Indo-Pacific Economic Framework for Prosperity (IPEF),” accessed May 3, 2023.

⁵⁵³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 28; White House, “Press Gaggle by Press Secretary Karine Jean-Pierre,” May 20, 2022.

⁵⁵⁴ White House, “On-the-Record Press Call on the Launch of the Indo-Pacific Economic Framework,” May 23, 2022.

⁵⁵⁵ White House, “On-the-Record Press Call on the Launch of the Indo-Pacific Economic Framework,” May 23, 2022.

⁵⁵⁶ USTR, “United States and Indo-Pacific Economic Framework Partners,” September 9, 2022.

U.S. Trade Representative leads Pillar I, and the USDOC leads Pillars II through IV. The pillars are described as follows:

- Pillar I on Trade seeks commitments that build on the multilateral trading system and aims to promote inclusive growth and benefit workers, underserved communities, and micro-, small-, and medium-sized enterprises;⁵⁵⁷
- Pillar II on Supply Chains aims to ensure secure and resilient supply chains, promote labor rights, and build capabilities of micro-, small-, and medium-sized enterprises;⁵⁵⁸
- Pillar III on Clean Economy aims to advance cooperation to mitigate greenhouse gas emissions, promote enhanced energy security and climate resilience, and promote development of sustainable livelihoods in an inclusive manner,⁵⁵⁹ and
- Pillar IV on Fair Economy intends to implement anticorruption measures and tax initiatives within domestic legal frameworks and to cooperate on transparency and capacity building in these areas.⁵⁶⁰

Text was shared for Pillar II and Pillar IV; in addition, text was shared for sections of Pillar I and discussions around this text were held in 2022.⁵⁶¹ The rest of this section focuses on developments in 2022 related to Pillar I (trade), which contains objectives in several areas, including labor, digital economy, trade facilitation, environment, agriculture, transparency and good regulatory practices, competition policy, inclusivity, and technical assistance and cooperation.

Among these objectives, the first negotiating round under this pillar held in December 2022 covered commitments in the areas of agriculture, services domestic regulation, trade facilitation, transparency, and good regulatory practices.⁵⁶² Summaries of the specific provisions under discussion in December 2022 were released to the public in March 2023.⁵⁶³ The discussions covered several areas:

- On agriculture, the U.S. proposed text included elements on sustainable agriculture, innovation, and technology, among other things. The text also covered transparency, cooperation, and science-based decision making in the areas of food safety and plant and animal health. The

⁵⁵⁷ USTR sought public comment before the IPEF launch via 87 Fed. Reg. 13789 (April 11, 2022). USTR, “Ministerial Text for the Trade Pillar of the IPEF,” September 9, 2022.

⁵⁵⁸ USDOC, “Ministerial Statement for Pillar II of the IPEF,” September 9, 2022, 1. USDOC, “Ministerial Statement for Pillar II of the IPEF,” September 9, 2022, 1.

⁵⁵⁹ USDOC, “Ministerial Statement for Pillar III of the IPEF,” September 9, 2022, 1. USDOC, “Ministerial Statement for Pillar III of the IPEF,” September 9, 2022, 1.

⁵⁶⁰ USDOC, “Ministerial Statement for Pillar IV of the IPEF,” September 9, 2022.

⁵⁶¹ USTR, “Joint USTR and Department of Commerce Readout,” December 15, 2022.

⁵⁶² USTR, “Joint USTR and Department of Commerce Readout,” December 15, 2022. Services domestic regulation is presented as part of Transparency and Good Regulatory Practices in the September 2022 negotiating objectives. The December 2022 negotiating round covered text for all four IPEF pillars. Subsequent negotiating rounds on all pillars took place in March and May 2023, and a special round on Pillars II–IV occurred in February 2023. USDOC, “Indo-Pacific Economic Framework,” accessed June 6, 2023.

⁵⁶³ USTR, “Pillar I: Trade,” March 20, 2023. In April 2023, USTR released summaries of digital trade, labor, environment, technical assistance, and inclusivity provisions.

proposed agriculture text also included provisions on transparency in import licensing and other certification requirements and disciplines on export restrictions.⁵⁶⁴

- On services domestic regulation, the U.S. proposed text aimed to balance the ability to apply domestic standards while ensuring fair and transparent treatment for service suppliers with respect to authorizations required to provide a service. The United States proposed a specific set of rules to ensure fair and transparent treatment for financial service suppliers.⁵⁶⁵
- On trade facilitation, the U.S. proposed text contained several provisions, including on topics such as automation of customs procedures. The automation provisions included requirements for a single window for prearrival information, among other points. The U.S. proposed text included provisions supporting e-commerce and encouraging the use of electronic invoicing frameworks. The proposed text also included penalty disciplines, including provisions to combat illicit trade.⁵⁶⁶
- On good regulatory practices, the U.S. proposed text contained several elements, including provisions on transparency, such as use of regulatory agendas and publishing draft measures and allowing comment periods, as well as tools to expand access to regulatory information through online access. The proposed text also included provisions relating to informed regulatory decision-making, including with respect to using the best available information and data when planning regulatory actions. It also called for opportunities for stakeholders to request issuance, modification, or repeal of regulations under certain circumstances; and transparency in the role of expert advisors.⁵⁶⁷

United States-Taiwan Initiative on 21st Century Trade

The United States and Taiwan launched the United States-Taiwan Initiative on 21st Century Trade (U.S.-Taiwan Initiative) on June 1, 2022. The U.S.-Taiwan Initiative aims to strengthen economic and trade linkages as well as promote innovation and inclusive growth. The negotiating mandate, released August 17, 2022, covers several areas.⁵⁶⁸ These areas include trade facilitation; good regulatory practices, anticorruption, small and medium-sized enterprises (SMEs), agriculture; standards, digital trade, labor, environment, state-owned enterprises, and nonmarket policies and practices. Like the IPEF, the U.S.-Taiwan Initiative does not include tariff negotiations. Taiwan had expressed interest in joining IPEF negotiations but was not invited.⁵⁶⁹ The Taiwanese trade negotiator also indicated Taiwan would like to see the U.S.-Taiwan Initiative leading to a traditional free trade agreement that includes tariff negotiations.⁵⁷⁰

⁵⁶⁴ USTR, “Pillar I: Trade,” March 20, 2023.

⁵⁶⁵ USTR, “Pillar I: Trade,” March 20, 2023.

⁵⁶⁶ USTR, “Pillar I: Trade,” March 20, 2023.

⁵⁶⁷ USTR, “Pillar I: Trade,” March 20, 2023.

⁵⁶⁸ USTR, “U.S.-Taiwan Initiative on 21st-Century Trade: Negotiating Mandate,” August 17, 2022.

⁵⁶⁹ Yeh et al., “Why Was Taiwan Left Out of the U.S.-Led IPEF?,” May 25, 2022.

⁵⁷⁰ Some members of Congress indicated their support for a full FTA with Taiwan during a House Ways and Means Committee Hearing on Taiwan in September 2022. Reuters, “Taiwan Tells U.S.: Don’t Forget Free Trade Deal,” June 7, 2022; Oswald, “Path Uncertain for U.S.-Taiwan Free Trade Deal despite Hill Support,” October 3, 2022.

Representatives from the United States and Taiwan met several times in 2022. The June 1, 2022, meeting launched the U.S.-Taiwan Initiative, and representatives identified areas to be covered by the negotiations.⁵⁷¹ Following the launch, USTR sought public comment in developing negotiating objectives for the initiative.⁵⁷² At an August 2022 meeting, representatives agreed on the negotiating mandate for the initiative, described above.⁵⁷³ In November 2022, representatives from the United States and Taiwan met and discussed concepts for commitments in several areas under the negotiating mandate.⁵⁷⁴

United States-Kenya Strategic Trade and Investment Partnership

The United States and Kenya launched the United States-Kenya Strategic Trade and Investment Partnership (STIP) on July 14, 2022.⁵⁷⁵ In the launch statement, the United States and Kenya indicated they intended for the STIP to lead to high-level commitments that will foster investment, economic growth, and regional economic integration, while benefiting workers and micro-, small-, and medium-sized enterprises.⁵⁷⁶ The STIP does not include a traditional market-access (tariff) component, though some in Kenya view negotiations as a pathway to such an agreement.⁵⁷⁷

The joint statement launching the STIP identified areas where the parties will seek commitments.⁵⁷⁸ These areas include agriculture; anticorruption; digital trade; environment and climate change action; good regulatory practices; micro-, small-, and medium-sized enterprises; promoting workers' rights and protections; supporting participation of women, youth, and others in trade; standards collaboration; and trade facilitation and customs procedures. Following the launch, USTR sought public comment in developing negotiating objectives for the STIP in these areas.⁵⁷⁹

In November 2022, USTR Tai discussed the objectives of the STIP with the recently confirmed Kenyan Minister of Investment, Trade and Industry, Cabinet Secretary Moses K. Kuria.⁵⁸⁰ Tai and Kuria discussed plans for the initial negotiation rounds of the STIP.⁵⁸¹

⁵⁷¹ USTR, "United States and Taiwan Announce the Launch of the U.S.-Taiwan Initiative," June 1, 2022.

⁵⁷² 87 Fed. Reg. 34745 (June 7, 2022).

⁵⁷³ USTR, "United States and Taiwan Commence Formal Negotiations," August 17, 2022.

⁵⁷⁴ USTR, "United States and Taiwan Conclude Two Days of Productive Meetings," November 9, 2022. Subsequent rounds of negotiations took place in 2023 and the Agreement on the U.S.-Taiwan Initiative was signed on June 1, 2023. ; USTR, "Statement from USTR Spokesperson Sam Michel on U.S.-Taiwan Initiative," June 1, 2023.

⁵⁷⁵ USTR, "United States and Kenya Announce the Launch of the U.S.-Kenya . . . Partnership," July 14, 2022.

⁵⁷⁶ USTR, "United States and Kenya Announce the Launch of the U.S.-Kenya . . . Partnership," July 14, 2022.

⁵⁷⁷ In particular, the outgoing Kenyan Trade and Industrialization cabinet secretary, Betty Maina, has expressed this view. Muiruri, "Kenya Seeks Temporary Pact with US Ahead of Full Trade-Deal," September 13, 2022.

⁵⁷⁸ USTR, "United States and Kenya Announce the Launch of the U.S.-Kenya . . . Partnership," July 14, 2022.

⁵⁷⁹ 87 Fed. Reg. 48060 (August 5, 2022).

⁵⁸⁰ USTR, "Readout of Ambassador Katherine Tai's Virtual Meeting," November 3, 2022.

⁵⁸¹ The first formal negotiating round took place in February 2023. USTR, "Readout of Ambassador Tai's Meeting with Kenya's . . . Moses Kuria," December 12, 2022; USTR, "United States and Kenya Conclude Opening Round," February 10, 2023.

Other Trade Initiatives

Several high-level engagements on other trade initiatives addressed cooperation on issues, including forced labor in global supply chains and inclusive trade. Highlights of developments during 2022 follow.

Americas Partnership for Economic Prosperity (APEP): President Biden announced the APEP, a framework for regional cooperation, at the Summit of the Americas in June 2022.⁵⁸² The APEP intends to drive economic growth in the Western Hemisphere through collaboration in five areas: inclusive trade, decarbonization, resilient supply chains, investment in public infrastructure, and reinvigorating regional institutions.⁵⁸³ The Biden Administration and other commentators have compared the APEP framework and pillars to other initiatives, such as the IPEF. The Biden Administration and USTR have indicated that the many U.S. FTAs in the Americas region will be a starting point for APEP negotiations, whereas the United States does not have FTAs with many IPEF partners.⁵⁸⁴

Engagement with Japan: In 2022, the United States engaged with Japan through several initiatives, including the U.S.-Japan Trade Agreement (USJTA), the U.S.-EU-Japan Trilateral partnership, and the U.S.-Japan Partnership on Trade. On June 2, 2022, the U.S. Trade Representative and the Japanese Ambassador to the United States signed an agreement on beef safeguard trigger levels under the USJTA.⁵⁸⁵ In September 2022, labor ministers issued a statement on forced labor under the U.S.-EU-Japan Trilateral Partnership (see discussion in the EU section of chapter 6). The U.S.-Japan Partnership on Trade held two rounds of meetings, in March and August 2022, focusing on labor rights, digital economy, and third-country digital regulations, as well as proposals on new issues and bilateral and multilateral collaboration.⁵⁸⁶ These discussions culminated in the January 2023 launch of a joint task force focused on promoting human rights and international labor standards.⁵⁸⁷

Other engagements described elsewhere: In addition, in March and April 2022, the United States and the United Kingdom (UK) held the first dialogue on the future of Atlantic trade and reestablished the U.S.-UK SME dialogue (see chapter 6 for more detail).⁵⁸⁸ The U.S.-EU Trade and Technology Council,

⁵⁸² White House, “Remarks by President Biden at the Inaugural Ceremony,” June 8, 2022.

⁵⁸³ A later USTR Fact Sheet describes four areas including regional competitiveness, resilience, shared prosperity, and inclusive development. The APEP members as of January 2023, the date of the formal launch, comprise Barbados, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Mexico, Panama, Peru, Uruguay, and the United States. USTR, “Biden-Harris Administration Advances Americas Partnership,” January 2023; White House, “President Biden Announces the Americas Partnership,” June 8, 2022; USTR, “Biden-Harris Administration Advances Americas Partnership,” January 2023.

⁵⁸⁴ Monicken, “APEP Will Build on Existing Trade Ties,” August 23, 2022; White House, “Background Press Call by Senior Administration Officials Previewing,” June 8, 2022.

⁵⁸⁵ The safeguard was triggered in April 2021, which also activated a consultation mechanism under the USJTA. The agreement entered into force on January 1, 2023. USTR, “Protocol Amending the Beef Safeguard Provisions of the USJTA,” December 9, 2022; USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 67. For more information on the provisions of the USJTA, see USITC, *The Year in Trade 2020*, September 2021, 176–77.

⁵⁸⁶ USTR, “Readout of the First Round of Meetings of the U.S.-Japan Partnership on Trade,” March 1, 2022; USTR, “Readout of the Second Meeting of the U.S.-Japan Partnership on Trade,” August 25, 2022.

⁵⁸⁷ USTR, “United States and Japan Launch Task Force,” January 6, 2023.

⁵⁸⁸ USTR, “USTR, Department of Commerce and Small Business Administration Convene . . . Dialogue in Boston,” “USTR, Department of Commerce and Small Business Administration Convene . . . Dialogue in Boston,” June 22, 2022.

which was established in 2021, held its second and third ministerial meetings in May and December 2022, respectively (see chapter 6 for more detail).⁵⁸⁹ In December 2022, the United States and the Africa Continental Free Trade Area (AfCFTA) Secretariat signed the Memorandum of Understanding on Cooperation for Trade and Investment Between the African Continental Free Trade Area Secretariat and the Government of the United States of America, which supports the implementation of the AfCFTA (see chapter 2 for more detail).⁵⁹⁰

⁵⁸⁹ USTR, “U.S.-E.U. Trade and Technology Council (TTC),” May 4, 2023.

⁵⁹⁰ USTR, “United States AfCFTA Secretariat MOU,” December 14, 2022.

Chapter 5

U.S. Free Trade Agreements

This chapter summarizes developments related to U.S. free trade agreements (FTAs) during 2022.⁵⁹¹ It describes trends in U.S. merchandise imports entered under FTAs,⁵⁹² summarizes major activities involving U.S. FTAs in force during 2022, and it highlights the status of U.S. FTA negotiations during the year. As of December 31, 2022, the United States had 14 FTAs in force with 20 trading countries (table 5.1).⁵⁹³ The most recent agreement is the United States-Mexico-Canada Agreement (USMCA), which replaced the North American Free Trade Agreement (NAFTA) and entered into force on July 1, 2020.

⁵⁹¹ According to USTR, the term “free trade agreements” includes free trade agreements (FTAs) and trade promotion agreements (TPAs). USTR, “Free Trade Agreements,” accessed April 28, 2023.

⁵⁹² The U.S. Census Bureau maintains data on U.S. exports to FTA partners, but it does not collect data on how other countries impose duties on imports into their own countries. Given this data gap, we cannot reconcile U.S. export data with individual FTA partners’ data for originating U.S. goods imports. Thus, chapter 6 of this report discusses only total U.S. exports to FTA partners.

⁵⁹³ In addition to the 14 FTAs, the United States has an agreement focusing on free trade in critical minerals in force with Japan, which was signed on March 28, 2023. Therefore, the details are not included in this report. USTR, “Free Trade Agreements,” accessed April 28, 2023.

Table 5.1 U.S. free trade agreements (FTAs) in force as of December 31, 2022

TPA = trade promotion agreement.

FTA	Date of signature	Date of entry into force
U.S.-Israel FTA	April 22, 1985	September 1, 1985
U.S.-Jordan FTA	October 24, 2000	December 17, 2001
U.S.-Chile FTA	June 6, 2003	January 1, 2004
U.S.-Singapore FTA	May 6, 2003	January 1, 2004
U.S.-Australia FTA	May 18, 2004	January 1, 2005
U.S.-Morocco FTA	June 15, 2004	January 1, 2006
U.S.-Bahrain FTA	September 14, 2004	August 1, 2006
Dominican Republic-Central America FTA (CAFTA-DR) ^a	May 28, 2004	Various dates, 2006–2009
U.S.-Oman FTA	January 19, 2006	January 1, 2009
U.S.-Peru TPA	April 12, 2006	February 1, 2009
U.S.-Korea FTA (KORUS)	June 30, 2007	March 15, 2012
U.S.-Colombia TPA	November 22, 2006	May 15, 2012
U.S.-Panama TPA	June 28, 2007	October 31, 2012
United States-Mexico-Canada Agreement (USMCA) ^b	November 30, 2018	July 1, 2020

Source: USTR, "Free Trade Agreements," accessed April 28, 2023.

Notes:

^a CAFTA-DR is an FTA between the United States and six developing economies: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic. All parties signed CAFTA-DR on May 28, 2004, except the Dominican Republic, which signed in August 2004. CAFTA-DR entered into force between the United States and El Salvador on March 1, 2006; between the United States and Honduras and Nicaragua on April 1, 2006; between the United States and Guatemala on July 1, 2006; between the United States and the Dominican Republic on March 1, 2007; and between the United States and Costa Rica on January 1, 2009.

^b On July 1, 2020, the United States-Mexico-Canada Agreement replaced the North American Free Trade Agreement, which had entered into force on January 1, 1994.

U.S. Imports Entered under FTAs in 2022

The value of U.S. merchandise imports under FTAs (hereafter FTA imports) increased by 16.0 percent to \$491 billion in 2022 (table 5.2). Of the 14 FTAs, FTA imports under the USMCA accounted for more than three-quarters of total U.S. merchandise imports under FTAs (75.8 percent or \$372 billion), of which Mexico contributed the largest share, at 46.3 percent of all FTA imports, and Canada made up 29.5 percent. FTA imports under non-USMCA FTAs increased 20.0 percent, to \$115 billion in 2022.

U.S. FTA imports from Mexico and Canada experienced the largest increases in absolute dollar value. U.S. FTA imports from Colombia, Morocco, and Bahrain achieved the largest percentage increases, though each rose from a smaller baseline. Chile was the only partner from which U.S. FTA imports fell in 2022, contracting by 7.6 percent (table 5.2).

Table 5.2 U.S. imports entered under FTA provisions, by FTA partner, and total U.S. imports for consumption, annual, 2020–22

In millions of dollars and percentages. USMCA = United States-Mexico-Canada Agreement; CAFTA-DR = Dominican Republic-Central America-United States Free Trade Agreement. The first 3 rows show U.S. imports for consumption from Canada and Mexico under NAFTA, under the USMCA, followed by the total for both; the next 13 rows show U.S. imports from countries under 13 other FTA agreements followed by their total under all other FTA provisions and by the total under all FTAs; the next row shows imports for consumption under non-FTAs; and finally, total U.S. imports for consumption.

FTA partner	2020 (million \$)	2021 (million \$)	2022 (million \$)	Change, 2021–22 (%)
Canada	102,287	126,610	145,069	14.6
Mexico	173,084	197,398	227,318	15.2
NAFTA/USMCA partners	275,371	324,008	372,387	14.9
Israel	2,848	3,212	3,377	5.1
Jordan	1,558	2,039	2,627	28.8
Chile	5,454	9,335	8,629	-7.6
Singapore	5,567	6,745	7,447	10.4
Australia	3,820	4,291	5,344	24.5
Morocco	307	389	585	50.4
Bahrain	349	510	723	41.8
CAFTA-DR	12,758	16,106	17,786	10.4
Oman	522	944	1,312	38.9
Peru	3,513	4,194	5,476	30.6
South Korea	35,356	42,720	53,618	25.5
Colombia	4,530	5,130	7,765	51.4
Panama	48	48	60	26.9
Non-USMCA FTA partners	76,630	95,663	114,751	20.0
All FTA partners	354,824	423,392	491,070	16.0
All imports under non-FTAs	1,975,731	2,394,848	2,735,245	14.2
Total U.S. imports for consumption	2,330,555	2,818,241	3,226,315	14.5

Source: USITC DataWeb/Census, accessed July 5, 2023.

The utilization rates for FTAs were 74.7 percent in 2022 and 78.9 percent in 2021 (table 5.3). In 2022, U.S. FTAs, on average, had higher utilization rates compared with other U.S. tariff preference programs, including the African Growth and Opportunity Act, the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, and the Nepal Trade Preference Program.

FTA utilization rates vary over time and across countries (table 5.3). Chile, Peru, Jordan, and Australia sustained utilization rates above 90 percent during 2020–22. South Korea, CAFTA-DR, Mexico, and Bahrain had utilization rates above 80 percent in 2022. FTA utilization rates were lowest for Canada (57.1 percent) and Morocco (60.8 percent).

Table 5.3 Utilization rates for FTAs, by FTA partner, annual, 2020–22

In percentages and percentage points (ppts). NAF–TA = North America Free Trade Agreement; USMCA = United States-Mexico-Canada Agreement; CAFTA-DR = Dominican Republic-Central America-United States Free Trade Agreement. Utilization rates are calculated as total imports for consumption under the FTA as a share of total imports for consumption of products (HTS) eligible for the FTA.

FTA partner	2020 (%)	2021 (%)	2022 (%)	Percentage point change, 2021–22 (ppts)
Canada	69.3	64.0	57.1	-6.9
Mexico	89.7	86.9	84.8	-2.1
USMCA partners	80.9	76.3	71.3	-5.0
Israel	84.4	82.6	79.2	-3.4
Jordan	91.3	92.0	92.2	0.2
Chile	97.5	98.1	96.6	-1.4
Singapore	75.2	69.5	72.2	2.7
Australia	94.1	92.5	91.6	-0.9
Morocco	64.9	57.1	60.8	3.7
Bahrain	90.7	89.3	85.5	-3.8
CAFTA-DR	90.0	88.7	85.0	-3.7
Oman	93.8	80.1	79.7	-0.4
Peru	93.1	91.7	92.1	0.4
South Korea	89.1	86.7	87.4	0.6
Colombia	69.9	68.3	69.9	1.6
Panama	58.9	63.3	75.3	12.0
Non-USMCA FTA partners	87.3	85.4	85.0	-0.5
All FTA partners	82.9	78.9	74.7	-4.2

Source: USITC DataWeb/Census, Imports for consumption, accessed July 5, 2023.

Developments in U.S. FTAs Already in Force during 2022

The United States-Mexico-Canada Agreement

The United States-Mexico-Canada Agreement (USMCA or Agreement) entered into force on July 1, 2020, superseding the North American Free Trade Agreement (NAFTA).⁵⁹⁴ This section describes actions taken in 2022 by the USMCA Free Trade Commission and developments in the implementation of provisions such as labor monitoring and enforcement, environment, small and medium-sized enterprises, and dispute settlement.⁵⁹⁵

⁵⁹⁴ On January 29, 2020, the President signed the United States-Mexico-Canada Agreement Implementation Act (USMCA Implementation Act) into law. Through the USMCA Implementation Act, Congress approved the United States-Mexico-Canada Agreement (USMCA) and enacted legislation that implements its provisions. United States-Mexico-Canada Agreement Implementation Act, 19 U.S.C. §§ 4501–4732.

⁵⁹⁵ For information on the negotiation and passage of the USMCA, see USITC, *The Year in Trade 2019*, August 2020, 155–58; USITC, *The Year in Trade 2020*, September 2021, 123–31.

Developments in the implementation and enforcement of USMCA in 2022 included:

- The Interagency Committee on Trade in Automotive Goods met regularly in 2022. This committee is tasked with monitoring the implementation of USMCA’s automotive rules of origin, including alternate, producer-specific staging.⁵⁹⁶ On August 20, 2021, Mexico requested consultations on the interpretation and application on certain rules of origin (see “dispute settlement” section below).
- The United States requested consultations with Mexico concerning measures related to regulation of energy markets (see “dispute settlement” section below).⁵⁹⁷ This request follows changes in Mexican laws concerning Mexico’s state-owned electricity utility (CFE) and oil and gas company (PEMEX), including a March 2021 amendment to the Electric Power Industry Law.⁵⁹⁸

Developments in the Implementation of the USMCA

USMCA Free Trade Commission

The USMCA establishes a Free Trade Commission, composed of ministerial-level representatives of the United States, Canada, and Mexico (parties) or their delegates (deputies). The Free Trade Commission is tasked with supervising the implementation and operation of the Agreement by supervising the work of committees and subsidiary bodies and considering ways to enhance the trade and investment relationships, among other functions.⁵⁹⁹ It convened the first deputies’ meeting under the USMCA on January 13, 2022, and the Free Trade Commission met on July 8, 2022.⁶⁰⁰

During 2022, several committees held meetings, including: Rules of Origin; Textiles and Apparel; Trade Facilitation; Sanitary and Phytosanitary Measures; Technical Barriers to Trade; Transportation Services; Financial Services; Intellectual Property Rights; State-Owned Enterprises (SOEs); Small and Medium-Sized Enterprises (SMEs); Competitiveness; Good Regulatory Practices; Environment; and, Temporary Entry.⁶⁰¹ At both the deputies’ meeting and the Free Trade Commission meeting, representatives of the parties reviewed work by these committees and by the Working Group on Agricultural Biotechnology,

⁵⁹⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 56–57; USITC, *The Year in Trade 2021*, August 2022, 146–47; USITC, *USMCA Automotive Rules of Origin*, June 2023, 28–35.

⁵⁹⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 101.

⁵⁹⁸ For more information see USTR, *2023 National Trade Estimate*, March 31, 2023, 283–84; USITC, *The Year in Trade 2021*, August 2022, 187–89.

⁵⁹⁹ Committees and other subsidiary bodies are established under different chapters of the Agreement. USMCA, Chapter 30, Article 30.1–2, July 1, 2020.

⁶⁰⁰ The first Free Trade Commission meeting took place in May 2021. USTR, “Trilateral Statement of the USMCA Free Trade Agreement,” May 18, 2021; USTR, “Second Meeting of the USMCA Free Trade Commission,” July 8, 2022; USTR, “Joint Statement on the First USMCA Deputies Meeting,” January 13, 2022.

⁶⁰¹ USMCA committees are generally tasked with monitoring the operation of a given chapter, as well as promoting cooperation among the parties on related issues. For example, the Technical Barriers to Trade Committee monitors the implementation and operation of the Technical Barriers to Trade Chapter, in part through encouraging cooperation and facilitating technical discussions (USMCA, art. 11.11, July 1, 2020). On the other hand, the major provision of the Competitiveness Chapter is the establishment of the Competitiveness Committee, whose major task is to promote North American exports and economic integration (USMCA, ch. 26, July 1, 2020). For a summary of provisions of USMCA chapters, see Villareal, 2021. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 56–57; CRS, *The United States-Mexico-Canada Agreement (USMCA)*, December 28, 2021.

the Labor Council, and the Advisory Committee on Private Commercial Disputes (see discussion below on developments in labor under the USMCA).⁶⁰²

Furthermore, at both the January deputies' meeting and July Free Trade Committee meeting, the United States, Mexico, and Canada also held discussions on the implementation of USMCA objectives concerning labor, environment, competitiveness, SMEs and inclusive trade, and SOEs.⁶⁰³ Labor discussions highlighted the obligation to prohibit importation of goods produced with forced labor. Discussions on inclusive trade recognized the work of the SME Committee, including the first trilateral SME dialogue of April 2022, among other issues (see below). Discussions on competitiveness focused on North American supply chain resiliency and integration, and the Free Trade Commission directed the Competitiveness Committee to complete negotiations on the establishment of a subcommittee for cooperation during emergency situations.⁶⁰⁴

In 2022, the ministers also signed two Free Trade Commission Decisions under the USMCA. Decision No. 3 is an interpretation of Paragraph 1 of Section C of Annex 6-A, which governs the preferential tariff treatment for non-originating textile and apparel goods.⁶⁰⁵ The Decision clarifies when textile and apparel goods produced with fabric or yarn originating outside the parties can qualify for preferential tariff treatment under the USMCA. Decision No. 4 adopted Spanish- and French-language versions of the Rules of Procedures for Binational Panels, Extraordinary Challenge Committees, and Special Committees under Chapter 10 of the USMCA. The decision also adopted an updated English-language version of the Rules and Procedures for Extraordinary Challenge Committees.⁶⁰⁶ The original English-language versions of these rules and procedures were adopted in 2021.⁶⁰⁷

Small and Medium-Sized Enterprises

The USMCA SME chapter includes commitments on cooperation, via a variety of mechanisms, which are intended to increase trade and investment opportunities for SMEs.⁶⁰⁸ The first trilateral SME dialogue took place in April 2022. Representatives from small business, government, and organizations serving SMEs participated in the dialogue. Discussion topics included best practices and guidance on resources

⁶⁰² The Working Group on Agricultural Biotechnology, established under USMCA Article 3.16, comprises technical-level representatives of the parties and reports to the Agriculture Committee. The Advisory Committee on Private Commercial Disputes facilitates resolution of disputes between private parties in the USMCA free trade area (USMCA, Article 31.22). USTR, "Joint Statement on the First USMCA Deputies Meeting," January 13, 2022; USTR, "Second Meeting of the USMCA Free Trade Commission," July 8, 2022.

⁶⁰³ USTR, "Joint Statement on the First USMCA Deputies Meeting," January 13, 2022; USTR, "Second Meeting of the USMCA Free Trade Commission," July 8, 2022.

⁶⁰⁴ USTR, "Second Meeting of the USMCA Free Trade Commission," July 8, 2022.

⁶⁰⁵ Originating goods are those that meet the Agreement's rules of origin. USTR, "USMCA Free Trade Commission Decision No. 3," accessed April 26, 2023.

⁶⁰⁶ USTR, "USMCA Free Trade Commission Decision No. 4," accessed April 26, 2023.

⁶⁰⁷ USTR, "USMCA Free Trade Commission Decision No. 2," May 18, 2021.

⁶⁰⁸ USMCA, Chapter 25, July 1, 2020. These mechanisms include a Trilateral SME Dialogue (Article 25.5), a Committee on SME issues (Article 25.4), information sharing (Article 25.3), and cooperation through support infrastructure (Article 25.2). For discussion see USITC, *The Year in Trade 2021*, August 2022, 145–46.

for exporting and importing under the USMCA, as well as discussion of the COVID-19 pandemic-related recovery.⁶⁰⁹

In May 2022, the USMCA SME Committee hosted a webinar for women-owned SMEs. The webinar provided information on private sector SME counselors and government resources for women-owned businesses, among other topics.⁶¹⁰ In July 2022, the USMCA SME Committee also convened the SME Counselor Network to exchange best practices on mentorship and training aimed at helping SMEs and underrepresented communities participate in export markets. U.S. participants in the Counselor Network includes members from Small Business Development Centers, Historically Black Colleges and Universities, Women’s Business Centers, Minority Business Development Agency offices, Veterans Business Outreach Centers, and Native American Technical Assistance Centers.⁶¹¹

Labor

The USMCA’s Labor chapter and the USMCA Implementation Act provide various mechanisms for cooperation, technical assistance, and enforcement of the USMCA labor provisions.⁶¹² The Labor Council, which was established under the Labor Agreement and comprises senior government representatives in trade and labor, did not meet in 2022 but reported to the Free Trade Commission in early 2022 (see section on USMCA Free Trade Committee above).⁶¹³ The USMCA Implementation Act also included funding for technical assistance to promote compliance with USMCA labor requirements; the U.S. Department of Labor (USDOL) had awarded a total of \$133 million to labor unions in Mexico through December 2022, including a new \$10 million award, in July 2022, to the Solidarity Center, an international labor rights organization that is allied with American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).⁶¹⁴

The USMCA Implementation Act, through the Interagency Labor Committee for Monitoring and Enforcement, established the Independent Mexico Labor Expert Board (IMLEB).⁶¹⁵ The IMLEB monitors Mexico’s implementation of its 2019 labor law reforms and compliance with labor obligations under USMCA; the third phase of the labor law reform, implementing a new labor justice system, was completed in 2022.⁶¹⁶

⁶⁰⁹ USTR, “USTR, SBA and Commerce Convene the First USMCA SME,” April 22, 2022; USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 174.

⁶¹⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 174.

⁶¹¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 175.

⁶¹² For comprehensive discussion of the labor provisions in USMCA, see USITC, *The Year in Trade 2021*, August 2022, 142–43.

⁶¹³ The Labor Council was established under USMCA Article 23.14 to consider matters under the Labor Chapter, including views of the public. The Labor Council held their inaugural meeting in June 2021. USTR, “Joint Statement on the First USMCA Deputies Meeting,” January 13, 2022; USTR, “USTR and USDOL Convene Inaugural Meeting of USMCA’s Labor Council,” June 29, 2021.

⁶¹⁴ USDOL, “Labor Rights and the USMCA,” accessed May 15, 2023; USDOL, “USMCA Technical Assistance,” accessed May 15, 2023.

⁶¹⁵ The Interagency Labor Committee coordinates the U.S. government’s efforts in monitoring the implementation of labor obligations under USMCA. 19 U.S.C. §§ 4631–4693; 85 Fed. Reg. 26315–26316 (May 1, 2020).

⁶¹⁶ The IMLEB submitted reports to the U.S. Congress on progress on these reforms in December 2020, July 2021, and March 2023. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 58; IMLEB, “Report: Independent Mexico Labor Expert Board,” March 23, 2023.

The USMCA’s Labor chapter and the U.S.-Mexico Facility-Specific Rapid Response Labor Mechanism allow the U.S. government to take expedited enforcement actions against individual factories that appear to be denying Mexican workers the right of freedom of association and collective bargaining under Mexican law.⁶¹⁷ Under the mechanism, petitions are filed with the International Labor Committee for Monitoring and Enforcement (ILC), which is co-chaired by the U.S. Trade Representative and the U.S. Secretary of Labor. In 2022, the United States responded to four petitions under the Rapid Response Labor Mechanism and requested a second review on one of them. In 2022, several petitions alleged denial of right of free association and collective bargaining.

These petitions included:

- an April 2022 petition by Sindicato Nacional Independiente de Trabajadores de Industrias y de Servicios Movimiento 20/32 (SNITIS);
- a May petition by United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana (SNTMMSSRM);
- a June petition by La Liga Sindical Obrera Mexicana (LSOM) and Comité Fronterizo de Obreras; and
- a September petition submitted by the AFL-CIO, United Steelworkers, and Sindicato Independiente de los Trabajadores Libres y Democráticos de Saint Gobain México (TLDSGM).⁶¹⁸

The requests brought by SNITIS, the UAW/AFL-CIO/SNTMMSSRM, and the TLDSGM were resolved through the Rapid Response Labor Mechanism, with unions negotiating representation and winning wage increases in some cases.⁶¹⁹ For a more complete description of these petitions and outcomes, see the section later in this chapter titled: “Chapter 31, Annex 31-A -- United States-Mexico Facility-Specific Rapid Response Labor Mechanism.”

Environment

The USMCA’s Environment chapter promotes mutually supportive trade and environmental policies and practices; promotes high levels of environmental protection and effective enforcement of environmental laws; and enhances the capacities of the parties to address trade-related environmental

⁶¹⁷ USMCA, Annex 31-A, July 1, 2020.

⁶¹⁸ The National Independent Union of Industrial and Service Workers Movement 20/32 (SNITIS), National Union of Mine, Metal, Steel, and Allied Workers of the Republic of Mexico (SNTIMSSRM), Mexican League of Union Workers (LSOM), and The Independent Union of Free and Democratic Workers of Saint-Gobain Mexico (TLDSGM) are unions and labor rights groups in Mexico.

⁶¹⁹ SNITIS filed on behalf of workers at a Panasonic Automotive Systems facility in Reynosa. UAW/AFL-CIO/SNTMMSSRM filed on behalf of workers at a Teksid Hierro facility in Frontera, Mexico. TLDSGM filed on behalf of workers at a Saint-Gobain México facility in Cuautla, Mexico. Some interventions occurred following the petition by the LSOM and Comité Fronterizo de Obreras (Border Workers Committee) with respect to a VU facility in Piedras Negras; the United States asked Mexico for a second review in January 2023. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 19–20.

issues, including through cooperation, in the furtherance of sustainable development.⁶²⁰ Several entities and mechanisms are in place to ensure implementation, monitoring, and enforcement of obligations.

The Environment chapter established the Environment Committee to oversee the implementation of the chapter.⁶²¹ The Environment Committee met in September 2022. The meeting included a public session to offer comments and ask questions on USMCA Environment chapter implementation.⁶²² Intra-committee discussions included the importance of cooperation and coordination with the Commission for Environmental Cooperation (CEC) and the parties' domestic efforts to transition to a circular economy, among other topics.⁶²³

The USMCA Implementation Act required the U.S. President to establish an Interagency Environment Committee for Monitoring and Enforcement (IEC), which coordinates monitoring of the implementation of parties' obligations under the USMCA Environment chapter among different U.S. government entities.⁶²⁴ USTR convened the IEC several times during 2022, including to review petitions submitted to the CEC (see below).⁶²⁵ In February 2022, USTR announced consultations with Mexico under article 24.29 of the Environment chapter.⁶²⁶ The consultations covered concerns with Mexico's protection of the endangered vaquita porpoise, prevention of illegal fishing, and trafficking of the endangered totoaba fish.⁶²⁷

In parallel with the USMCA Environment chapter, the parties entered into the Agreement on Environmental Cooperation, which retained and modernized the CEC originally established under the North American Agreement on Environmental Cooperation.⁶²⁸ The CEC supports the implementation of the USMCA and facilitates cooperation on environmental issues. Under USMCA articles 23.27 and 24.27, individuals and organizations in the United States, Canada, and Mexico can file submissions to the CEC Secretariat identifying concerns with the implementation of the Environment chapter. The CEC reviewed

⁶²⁰ USMCA, Chapter 24, July 1, 2020. For a discussion of obligations, see USITC, *The Year in Trade 2021*, August 2022, 144.

⁶²¹ USMCA, Chapter 24, Article 24.26, July 1, 2020.

⁶²² USTR, "United States, Mexico, and Canada Hold Meeting of the Environment Committee," September 23, 2022. The Environment chapter indicates the Environment Committee should provide opportunities for public input (USMCA, art. 24.26(8), July 1, 2022).

⁶²³ USTR, "Joint Statement on Meeting of the Environment Committee of the USMCA," September 23, 2022.

⁶²⁴ 19 U.S.C. §§ 4711–4717.

⁶²⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 193.

⁶²⁶ USTR, "USTR Announces USMCA Environment Consultations with Mexico," February 10, 2022.

⁶²⁷ The vaquita porpoise and totoaba fish are impacted by degradation of their habitat in the Sea of Cortez. Additionally, overfishing has endangered the totoaba fish and the illegal fishing practices used to catch totoaba fish have also endangered the vaquita porpoise. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 193; NOAA, "Species Directory - ESA Threatened & Endangered," accessed August 10, 2023; Porpoise Conservation Society, "What Is the Totoaba and How Is It Connected to the Vaquita?," accessed October 13, 2023.

⁶²⁸ The Agreement on Environmental Cooperation superseded the North American Agreement on Environmental Cooperation. Agreement on Environmental Cooperation, July 1, 2020; North American Agreement on Environmental Cooperation, 1993.

nine such submissions in 2022.⁶²⁹ The 2022 CEC ministerial meeting focused on environmental education for sustainable development.⁶³⁰

USMCA Dispute Settlement

The principal dispute settlement mechanisms of the USMCA are included in Chapter 10 (Trade Remedies), Chapter 14 (Investment), and Chapter 31 (Dispute Settlement).⁶³¹ Article 10.12 under Chapter 10 establishes a mechanism to provide an alternative to judicial review by domestic courts of final determinations in antidumping and countervailing duty cases with review by independent binational panels established under the Agreement.

Chapter 14 includes procedures for resolving disputes between a party and an investor of another party. Annex 14-C addresses the transition from NAFTA to the USMCA regarding “Legacy Investment Claims and Pending Claims.” Two annexes (14-D and 14-E) apply only between Mexico and the United States regarding investment disputes.

Chapter 31 governs government-to-government disputes concerning interpretations of, and obligations under, the Agreement. Annex 31-A to Chapter 31 established the United States-Mexico Facility-Specific Rapid Response Labor Mechanism, which allows the United States to take expedited enforcement action against individual facilities in Mexico that deny workers the right of free association and collective bargaining under Mexico’s laws necessary to fulfill the obligations under USMCA labor provisions.⁶³²

Chapter 10 Disputes

Six active cases were under review by binational panels established under Chapter 10, Article 10.12 at year-end 2022 (table 5.4). Four challenge the U.S. Department of Commerce’s (USDOC’s) antidumping and countervailing duty orders on softwood lumber from Canada, and two challenge the UDOC’s investigating authority’s final antidumping determination on carbon and certain alloy steel wire rod and steel concrete reinforcing bar from Mexico.⁶³³ Another dispute—filed against the United States in March 2022 and relating to a U.S. antidumping duty order on large diameter welded pipe—was terminated on December 9, 2022, by consent motion.⁶³⁴ An eighth dispute, in which the United States in 2020 had challenged the Canadian investigating authority’s final antidumping determination on gypsum board, was completed.⁶³⁵

⁶²⁹ In 2022 the CEC received three new submissions in 2022 as well as responding to previous submissions at different stages of the review process. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 193; CEC, “Registry of Submissions,” accessed August 10, 2023.

⁶³⁰ CEC, “2022 CEC Ministerial Statement,” July 15, 2022.

⁶³¹ USMCA Secretariat, “Dispute Settlement,” September 29, 2020.

⁶³² 19 U.S.C. §§ 4691–4693; USMCA, Ch. 31, Annex 31-A, July 1, 2020.

⁶³³ USMCA Secretariat, “Active Chapter 10 Article 10.12 Panel Reviews through 2021,” accessed July 12, 2023.

⁶³⁴ Notice of completion of panel review in the matter of Large Diameter Welded Pipe from Canada: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–20 (Secretariat File Number USA-CDA-2022-10.12-01). 87 Fed. Reg. 77553 (December 19, 2022).

⁶³⁵ The panel upheld the Canadian International Trade Tribunal’s decision to not conduct an interim review under the reasonableness standard. CUSMA Secretariat, “Article 10.12,” June 14, 2022.

Table 5.4 Active panel reviews under USMCA Chapter 10 during 2022 and their statuses as of December 31, 2022

AD = antidumping; CVD = countervailing duty; AR = administrative review; CDA = Canada; MEX = Mexico.

Country of determination under panel review	Panel review number	Case	Date of request	Status
United States	USA-CDA-2020-10.12-01	Softwood lumber CVD AR	December 10, 2020	Active
United States	USA-CDA-2020-10.12-02	Softwood lumber AD AR	December 22, 2020	Active
United States	USA-CDA-2021-10.12-03	Softwood lumber CVD AR2	December 28, 2021	Active
United States	USA-CDA-2021-10.12-04	Softwood lumber AD AR2	December 29, 2021	Active
				Terminated December 9, 2022, by consent motion
United States	USA-CDA-2022-10-12-01	Large diameter welded pipe AD AR	March 3, 2022	
United States	USA-MEX-2021-10.12-01	Carbon and certain alloy steel wire rod from Mexico	September 17, 2021	Active
United States	USA-MEX-2021-10.12-02	Steel concrete reinforcing bar AD AR	October 8, 2021	Active
				Completed June 16, 2022
Canada	CDA-USA-2020-10.12-01	Gypsum board AD	November 26, 2020	2022

Source: USMCA Secretariat, "Active Chapter 10 Article 10.12 Panel Reviews through 2021," accessed July 12, 2023.

Chapter 31 Disputes Brought by the United States against Canada and Mexico

Five chapter 31 disputes were active during 2022, with three still active at the end of 2022. Two were brought by the United States, regarding certain Mexican energy measures, and certain Canadian dairy tariff-rate quota (TRQ) measures. A third dispute was brought by Mexico (and later joined by Canada) against the U.S. interpretation of certain automotive rules of origin under the USMCA. Two other disputes were resolved during the year and therefore were no longer active at the end of 2022. One of the two resolved disputes included an earlier U.S. dispute against Canada regarding certain Canadian dairy TRQ measures. The report in the dairy dispute was released to the parties in December 2021 and to the public in January 2022. The second dispute, brought by Canada against a U.S. safeguard measure on crystalline silicon photovoltaic cells, was resolved by the signing of a memorandum of understanding.

Table 5.5 Active panel reviews under USMCA Chapter 31 during 2022 and their statuses as of December 31, 2022

TRQ = tariff-rate quota; CDA = Canada; MEX = Mexico.

Complaining party	Panel review number	Title	Date of request	Status
United States	CDA-USA-2021-31-01	Dairy TRQ allocation measures	May 25, 2021	Final report, December 20, 2021
United States	MEX-USA-2022-31-01	Measures related to energy	July 20, 2022	Active
United States	CDA-USA-2023-31-01	Dairy TRQ allocation measures	December 20, 2022	Active
Canada	USA-CDA-2021-31-01	Crystalline silicon photovoltaic cells safeguard measure	June 18, 2021	Final report February 1, 2022; MOU July 8, 2022
Mexico and Canada	USA-MEX-2022-31-01	Automotive ROOs	August 20, 2021	Active

Source: USMCA Secretariat, "Active Ch. 31 Dispute Settlement Binational Panel Reviews," accessed April 25, 2022.

The five Chapter 31 disputes and the issues raised and their statuses as of year-end 2022 are as follows.

The United States–Dairy TRQ Allocation Measures. The active dispute under Chapter 31 brought by the United States concerned certain Canadian dairy TRQ measures. On December 9, 2020, the United States requested USMCA Chapter 31 consultations with Canada regarding Canada’s administration of its dairy TRQs. The consultations concerned the 14 TRQs on dairy products that Canada has the right to maintain under the USMCA. The 14 product categories are milk, cream, skim milk powder, butter and cream powder, industrial cheeses, cheeses of all types, milk powders, concentrated or condensed milk, yogurt and buttermilk, powdered buttermilk, whey powder, products consisting of natural milk constituents, ice cream and ice cream mixes, and other dairy.⁶³⁶

In notices to importers that Canada published in June 2020 October 2020, and May 2021 for dairy TRQs, Canada set aside and limited access to a percentage of the quota for Canadian processors and so-called “further processors.” By setting aside and limiting access to a percentage of each dairy TRQ exclusively for Canadian processors, the United States alleged that Canada undermined the ability of American dairy farmers, processors, and exporters to benefit from the agreed-upon TRQs and sold a wide range of dairy products to Canadian consumers. The United States challenged Canada’s measures as inconsistent with Articles 3.A.2.4(b), 3.A.2.6(a), 3.A.2.11(b), 3.A.2.11(c), and 3.A.2.11(e) of the USMCA.⁶³⁷

On December 21, 2020, Canada and the United States held consultations, but the parties failed to resolve the matter. On May 25, 2021, the United States requested and established a USMCA dispute settlement panel under the USMCA to review Canada’s dairy TRQ allocation measures (table 5.5).⁶³⁸ The panel was composed on July 5, 2021; it released its final report on December 20, 2021, and to the public on January 4, 2022.⁶³⁹ The panel agreed with the United States that Canada’s allocation of dairy TRQs, specifically the set-aside of a percentage of each dairy TRQ exclusively for Canadian processors, was

⁶³⁶ USTR, “U.S. Requests Dispute Consultations on Canadian Dairy TRQ Policies,” December 20, 2022; USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 100.

⁶³⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 100.

⁶³⁸ USMCA Secretariat, “Active Ch. 31 Dispute Settlement Binational Panel Reviews,” accessed April 25, 2022.

⁶³⁹ TAS e-Filing, “Public Reading Room, Disputes, Dairy TRQ Allocation Measures,” January 4, 2022.

inconsistent with Canada’s commitment in Article 3.A.2.11(b) of the USMCA not to “limit access to an allocation to processors.”⁶⁴⁰

On May 16, 2022, Canada published policy changes to implement the panel’s finding. The United States rejected the changes as a basis to resolve the dispute because Canada remained out of compliance with its USMCA obligations.⁶⁴¹ The United States subsequently requested consultations for a second time on May 25, 2022 (see below).⁶⁴²

The United States—Measures Related to Energy. The United States brought a dispute under Chapter 31 regarding certain Mexican energy measures. On July 20, 2022, the United States requested consultations with Mexico under the USMCA. The consultations related to certain measures by Mexico that the United States claims undermine U.S. companies and U.S.-produced energy in favor of Mexico’s state-owned utility, the Comisión Federal de Electricidad (CFE), and state-owned oil and gas company, Petróleos Mexicanos (PEMEX). Specifically, the United States challenged, among other things, a 2021 amendment to Mexico’s electric power industry law that prioritizes CFE-produced electricity over electricity produced by private competitors in several respects; a December 2019 regulation that grants only PEMEX an extension to comply with maximum sulfur content requirements; and a June 2022 action that advantages PEMEX, CFE, and their products in the use of Mexico’s natural gas transportation network. The United States claimed that these measures appear to be inconsistent with several of Mexico’s USMCA obligations. At year-end 2022, the parties were continuing to consult on the matter.⁶⁴³

The United States—Dairy TRQ Allocation Measures, Second Consultation. On May 25, 2022, the United States requested consultations for a second time with Canada under Chapter 31 of the USMCA regarding Canada’s dairy TRQ measures, specifically relating to the eligibility of certain types of importers to apply for USMCA dairy TRQ allocations, the imposition of a 12-month activity requirement for TRQ allocation applicants and recipients, and the partial allocation of the 2022 dairy TRQs.⁶⁴⁴ Consultations were held on June 9, 2022, but the parties failed to resolve the matter.

After initiating consultations with Canada in May 2022, the United States identified additional aspects of Canada’s measures that appear to be inconsistent with Canada’s obligations under the USMCA. On December 20, 2022, the United States requested a new round of consultations with Canada.⁶⁴⁵ With that request, the United States expanded its challenge of Canada’s dairy TRQ allocation measures to include Canada’s use of a market-share approach for determining TRQ allocations. The United States claimed that Canada applies different criteria for calculating the market share of different segments of applicants and is failing to allow importers the opportunity to fully utilize TRQ quantities. The United States continued to challenge Canada’s dairy TRQ allocation measures that impose new conditions on the allocation and use of the TRQs, and that prohibit eligible applicants, including retailers, food service operations, and other types of importers, from accessing TRQ allocations. The United States claimed

⁶⁴⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 100.

⁶⁴¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 100.

⁶⁴² On November 10, 2023, the USMCA panel issued its final report on Canada’s dairy TRQ allocation measures. USTR, “USMCA Panel Releases Canada Dairy Report,” November 24, 2023.

⁶⁴³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 101; USTR, “U.S. Requests Consultations Over Mexico’s Energy Policies,” July 20, 2022.

⁶⁴⁴ USTR, “U.S. Initiates Second Dispute on Canadian Dairy TRQ Policies,” May 25, 2022.

⁶⁴⁵ USTR, “U.S. Requests Dispute Consultations on Canadian Dairy TRQ Policies,” December 20, 2022.

that, through these measures, Canada undermines the market access that it agreed to provide in the USMCA. At year-end 2022, the parties were consulting on this matter.⁶⁴⁶

Canada—Crystalline Silicon Photovoltaic Safeguard Measure on Solar Products. On June 18, 2021, Canada requested the establishment of a USMCA Chapter 31 dispute settlement panel to review the U.S. crystalline silicon photovoltaic cells safeguard measure.⁶⁴⁷ In its panel request and subsequent written submissions, Canada argued that the U.S. President’s decision in 2018 to not exclude Canadian products from the safeguard measure was inconsistent with USMCA Articles 10.2.1, 10.2.2, 10.2.5(b), 10.3, and 2.4.2.⁶⁴⁸ Canada also alleged that section 312 of the USMCA Implementation Act (19 U.S.C. § 4552), which provides the President with definitive authority to determine whether to exclude USMCA parties from safeguard actions, is inconsistent with Article 10.3 of the USMCA.⁶⁴⁹ The panel was composed on August 4, 2021.

On February 15, 2022, the panel circulated its final report, with mixed results for the United States. The panel found that the United States acted inconsistently with aspects of USMCA Chapters 2 and 10 by including imports of solar products from Canada in the safeguard measure. The panel, however, rejected Canada’s claim that a U.S. statutory provision vesting the President with authority to make exclusion determinations for imports from USMCA parties in safeguard proceedings is inconsistent with USMCA Chapter 10. On July 8, 2022, the United States and Canada signed a memorandum of understanding on trade in solar products, which constituted a resolution of this USMCA dispute (table 5.5).⁶⁵⁰

Mexico and Canada—Automotive Rules of Origin. On August 20, 2021, Mexico requested consultations with the United States regarding the interpretation and application of certain rules of origin for automobiles relating to “core” parts under the USMCA.⁶⁵¹ On August 26, 2021, Canada notified its intent to join the consultations. The dispute concerns the methodologies for determining whether a passenger vehicle or light truck qualifies for preferential tariff treatment under the terms agreed in the USMCA. The parties principally disagreed about what the Agreement prescribes concerning how an automotive producer may determine the regional value content (“RVC”) of a passenger vehicle or light truck, which is the content of the vehicle or truck that the parties consider to be of North American origin.⁶⁵² The United States held consultations with Mexico on September 24, 2021.⁶⁵³ On January 6, 2022, Mexico

⁶⁴⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 100–101.

⁶⁴⁷ TAS e-Filing, “Public Reading Room, Disputes, Crystalline Silicon Photovoltaic Cells,” June 18, 2021.

⁶⁴⁸ USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 79.

⁶⁴⁹ USTR, *2022 Trade Policy Agenda and 2021 Annual Report*, March 2022, 79.

⁶⁵⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 101–2. See also, USTR, “U.S. and Canada Announce Solar Trade MoU,” July 7, 2022. in which USTR stated, “The MOU promotes greater North American solar supply integration and reaffirms both countries’ commitment to prohibit imports of solar products produced in whole or in part with forced or compulsory labor. The MOU also contains a mechanism to ensure that solar product imports from Canada do not undermine the existing U.S. safeguard measure on imports of solar products.”

⁶⁵¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 102.

⁶⁵² United States – Automotive Rules of Origin (USA-MEX-CDA-2022-31-01) – Before the Arbitral Panel Established Pursuant to Article 31 of the Agreement Among the United States, Mexico, and Canada, which entered into force on July 1, 2020, Final Report of the panel, para. 2–3.

⁶⁵³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 102.

requested the establishment of a panel in connection with its dispute.⁶⁵⁴ Canada joined the dispute as a co-complainant on January 13, 2022.⁶⁵⁵

The parties composed the panel on March 22, 2022, and, as of December 2022, the panel proceedings were ongoing (table 5.5).⁶⁵⁶

Chapter 31, Annex 31-A Disputes—United States-Mexico Facility-Specific Rapid Response Labor Mechanism

In 2022, the United States invoked the Rapid Response Mechanism against four facilities operating in Mexico: Panasonic Automotive Systems, an automobile parts producer operating in Reynosa, Mexico; Teksid Hierro, an automobile parts producer in Frontera, Mexico; the VU automotive components facility in Piedras, Mexico; and Saint-Gobain México S.A. de C.V. Nicolas Bravo, a glass exporter in Cuautla, Mexico.⁶⁵⁷

In such a process between the United States and Mexico, first a petition is filed with the Interagency Labor Committee for Monitoring and Enforcement (ILC).⁶⁵⁸ Any person of a party may file a petition.⁶⁵⁹ The ILC is co-chaired by the U.S. Trade Representative and the U.S. Secretary of Labor.⁶⁶⁰ Next, the ILC reviews Rapid Response petitions and accompanying information that it receives within 30 days.⁶⁶¹ If the ILC determines, in response to a petition sufficient credible evidence of a denial of rights enabling the good faith invocation of enforcement mechanisms, the ILC will inform the Trade Representative for purposes of submitting a request that Mexico review the matter.⁶⁶² The Trade Representative may instruct the U.S. Secretary of the Treasury to suspend liquidation on entries of goods from the subject facility while the matter is pending.⁶⁶³

Panasonic Automotive Systems Facility in Reynosa, Mexico

The first petition, filed with the ILC in April 2022, was filed by two parties—SNITIS (a Mexican labor union) and Rethink Trade (a U.S.-based policy organization). The petition alleged that workers at the Panasonic Automotive System’s Reynosa, Mexico facility were being denied the right of free association and collective bargaining.⁶⁶⁴ The ILC determined sufficient credible evidence of a denial of rights enabling the good faith invocation of enforcement mechanisms. As a result, the U.S. Trade

⁶⁵⁴ Government of Mexico, “México solicita un panel de solución de controversias del T-MEC [Mexico Requests a T-MEC Dispute Settlement Panel],” January 6, 2022.

⁶⁵⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 102; Government of Canada, “Notice of Intention to Join as a Complaining Party,” January 13, 2022.

⁶⁵⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 102.

⁶⁵⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 18.

⁶⁵⁸ USMCA Implementation Act, 19 U.S.C. § 4646; see also Notice of Interagency Labor Committee for Monitoring and Enforcement Final Procedural Guidelines for Petitions Pursuant to the USMCA, 88 Fed. Reg. 40914 (June 22, 2023). For background on the request for review, see USTR, “United States Seeks Mexico’s Review,” May 18, 2022.

⁶⁵⁹ 88 Fed. Reg. 40914, 40919 (June 22, 2023). For purposes of the ILC, “person” means any natural person or enterprise, including labor organizations or nongovernmental organizations. 88 Fed. Reg. 40914, 40918 (June 22, 2023).

⁶⁶⁰ 88 Fed. Reg. 40914, 40918 (June 22, 2023); USTR, “United States Seeks Mexico’s,” May 18, 2022.

⁶⁶¹ 88 Fed. Reg. 40914, 40918 (June 22, 2023); USTR, “United States Seeks Mexico’s Review,” May 18, 2022.

⁶⁶² 88 Fed. Reg. 40914, 40918 (June 22, 2023).

⁶⁶³ USMCA Implementation Act, 19 U.S.C. § 4692(a).

⁶⁶⁴ USTR, “U.S. Seeks Mexico’s Review of Alleged . . . Violations at Panasonic Facility,” May 18, 2022.

Representative submitted a request to Mexico that Mexico review whether workers at the Panasonic facility are being denied the right of free association and collective bargaining.⁶⁶⁵ The government of Mexico found that the situation had been resolved during the review period.

During the review, the independent Mexican union and the facility engaged in discussions in connection with the USMCA matter. Actions taken by the facility to address the matter include:

- Renouncing a collective bargaining agreement it had signed with a union that lacked lawful bargaining authority and removing that union from the facility;
- Reimbursing workers for dues the company had deducted from workers' paychecks on that union's behalf;
- Remaining neutral in a representational vote that resulted in a landslide victory for SNITIS, an independent union;
- Recognizing SNITIS as the workers' bargaining representative and granting SNITIS access to the facility;
- Offering reinstatement and back pay to 26 workers who were allegedly terminated for participating in union activity;
- Reimbursing workers for wages unpaid as a result of a work stoppage at the facility; and
- Negotiating a new collective bargaining agreement with SNITIS that, if submitted to a worker vote and approved by workers, would result in a significant wage increase.

As a result of the above actions taken by the facility to resolve the action, the United States agreed that there was no ongoing denial of rights. Accordingly, the Trade Representative sent a letter to the Secretary of the Treasury directing the Secretary to resume liquidation of entries of goods from the Panasonic Automotive Systems facility.⁶⁶⁶

⁶⁶⁵ USTR, "United States Seeks Mexico's Review," May 18, 2022.

⁶⁶⁶ USTR, "U.S. Announces Resolution of Labor Matter at Mexican Panasonic Facility," July 14, 2022.

Teksid Hierro, Frontera, Mexico

The second petition was filed with the ILC in May 2022. In the petition the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), and the Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana (SNTMMSSRM) alleged that workers at the Teksid Hierro automobile parts facility in Frontera, Mexico, were being denied the right of free association and collective bargaining.

In response, the Trade Representative, on June 6, 2022, sent a request to Mexico to review the matter in light of the concerns at the facility.⁶⁶⁷ Mexico conducted a review in response to the request and facilitated constructive discussions between the company and the independent union to remediate the situation.

Actions taken by the facility included:

- Providing the independent union with access to the facility for the purpose of carrying out worker representation;
- Providing a designated office space within the company’s facility to the independent union to facilitate the representation of workers within the facility;
- Paying union dues withheld from workers and owed to the independent union;
- Reinstating and offering back pay to 36 workers—as well as compensation to an additional worker—each of whom was allegedly terminated for participating in a protest against the company; and
- Issuing a neutrality statement, as well as a statement that the only valid collective bargaining agreement is the one deposited at the federal level.

The government of Mexico agreed that a denial of rights occurred and worked to remediate the situation. As a result of the above actions taken by the facility and Mexico to resolve the action, the United States agreed that there is no ongoing denial of rights. Accordingly, the Trade Representative directed the Secretary of the Treasury to resume liquidation of entries of goods from the Teksid Hierro facility.⁶⁶⁸

VU automotive components facility, Piedras Negras, Mexico

The third petition was filed with the ILC on June 21, 2022. In the petition, La Liga Sindical Obrera Mexicana (LSOM), an independent Mexican union, and the Comité Fronterizo de Obreras (Border Committee of Women Workers), a labor organization, alleged that workers at the VU automotive components facility in Piedras Negras were being denied the right of free association and collective bargaining.⁶⁶⁹ The Trade Representative submitted a request to Mexico to review the matter, and Mexico found that the denial of rights at the facility had been resolved during the review period.

Mexico conducted a review in response to the request and, as a result of that review, took actions, including a supervised union representation election, in which VU workers voted in favor of the LSOM,

⁶⁶⁷ USTR, “U.S. Seeks Review of Labor Issues at Teksid Hierro Facility,” June 6, 2022.

⁶⁶⁸ USTR, “U.S. Announces Resolution of Labor Matter at Frontera Auto Parts Facility,” August 16, 2022.

⁶⁶⁹ USTR, “U.S. Seeks Review of Workers’ Rights at Automotive Components Facility,” July 21, 2022.

an independent Mexican union. The LSOM will be the first union to represent workers at the facility for purposes of collective bargaining.

Before the vote—and during the period of review—Mexico educated workers on the voting process and its implications, including by posting informational materials at the facility, and provided training to VU human resources and supervisory personnel. Mexico also facilitated a written commitment from the employer to remain neutral in the vote, which the employer then communicated to workers at the facility. Officials from Mexico’s Federal Center for Conciliation and Labor Registration (Federal Center) conducted site visits in the weeks leading up to the vote in order to investigate allegations of misconduct and oversaw the vote, which took place at the facility on August 31, 2022.

At the request of Mexico, officials from the International Labour Organization and Mexico’s National Electoral Institute served as election day observers. On September 9, 2022, the Federal Center issued the LSOM a certificate of representation, which authorizes the LSOM to bargain collectively on behalf of VU workers.

In addition, the government of Mexico agreed to conduct further inspections at the facility to monitor the situation and respond appropriately to any allegations raised.⁶⁷⁰ The United States and Mexico announced the successful resolution of this matter in September 2022.⁶⁷¹

Saint-Gobain México, S.A. de C.V. Nicolas Bravo, Cuautla, Mexico

The fourth petition was filed on September 27, 2022. The AFL-CIO, United Steelworkers, and Sindicato Independiente de las y los Trabajadores Libres y Democráticos de Saint-Gobain México—a Mexican union—filed a Rapid Response petition regarding Saint-Gobain México, S.A. de C.V. Nicolas Bravo, a facility in Cuautla, Mexico, that exports automotive glass. The petition contained allegations regarding denials of workers’ rights of free association and collective bargaining pertaining to two votes: a collective bargaining agreement approval vote in July 2022 and an upcoming vote to determine which union would represent the workers in collective bargaining agreement negotiations. During the U.S. review of the matter, the Mexican union petitioners won the representational vote at the facility and USTR stated that the situation at the facility improved for workers.⁶⁷²

Following these developments, the United States determined that any past denial of rights with respect to the votes no longer existed. In a press release, the Trade Representative observed that Mexico had remained engaged on this issue, helped run a fair union election, and worked with the company to address immediate issues. As a result, the United States determined that further immediate action on the petition was not needed.⁶⁷³

⁶⁷⁰ USTR, “U.S. Announces Resolution of Labor Matter at Manufacturas VU Facility,” September 14, 2022.

⁶⁷¹ USTR, “U.S. Announces Resolution of Labor Matter at Manufacturas VU Facility,” September 14, 2022.

⁶⁷² USTR, “United States Announces Successful Resolution,” October 27, 2022.

⁶⁷³ USTR, “U.S. Announces Resolution of Petition Regarding a Saint Gobain Facility,” October 27, 2022.

NAFTA Dispute Settlement

The North American Free Trade Agreement (NAFTA) between the United States, Canada, and Mexico was superseded on July 1, 2020, when the USMCA entered into force.⁶⁷⁴ Pursuant to USMCA Annex 14-C, which addresses the transition between NAFTA and the USMCA for investor-state disputes, these cases may proceed to their conclusion in accordance with Chapter 11 of NAFTA. The following section provides an update on NAFTA dispute settlement developments during 2022. Five NAFTA dispute settlement cases were active in 2022.⁶⁷⁵

The dispute settlement provisions of NAFTA are found in NAFTA Chapter 11 (Investment), Chapter 19 (Review and Dispute Settlement in Antidumping/Countervailing Duty Matters), and Chapter 20 (State-to-State Dispute Settlement).⁶⁷⁶

As of December 31, 2022, five active binational panels remained under NAFTA Chapter 19 (table 5.6). Two concern the Commission's determinations in fabricated structural steel from Canada and Mexico. Other active Chapter 19 cases include challenges to the USDOC's antidumping determination on fabricated structural steel from Canada and antidumping and countervailing determinations on softwood lumber from Canada (table 5.6).⁶⁷⁷

On July 19, 2022, a NAFTA Binational Panel affirmed Mexico's Secretaría de Economía's fourth determination on remand in the matter of Ammonium Sulphate from the United States.⁶⁷⁸ On June 27, 2022, a NAFTA Binational Panel affirmed the USDOC's determination in the matter of Light-Walled Rectangular Pipe and Tube from Mexico.⁶⁷⁹ Pursuant to USMCA Chapter 34, which provides the transitional provisions from NAFTA, these panel reviews may proceed to their completion in accordance with Chapter 19 of NAFTA.⁶⁸⁰ With respect to the five active binational panels as of December 31, 2022, footnotes in table 5.6 state that two of these panel reviews were terminated during 2023 on the basis of consent motions.

⁶⁷⁴ Some NAFTA regulations are still in effect because U.S. Customs and Border Protection hasn't finalized the replacement implementing the USMCA regulations.

⁶⁷⁵ USMCA, Ch. 14, Annex 14-C, Art. 5, July 1, 2020. Annex 14-C addresses the transition between NAFTA and the USMCA regarding "Legacy Investment Claims and Pending Claims."

⁶⁷⁶ A description of NAFTA provisions, settlement mechanisms, and arbitral provisions are provided in the 2019 report, USITC, *The Year in Trade 2019*, August 2020, 161.

⁶⁷⁷ USMCA Secretariat, "Publications," accessed April 25, 2023.

⁶⁷⁸ 87 Fed. Reg. 48465 (Aug. 9, 2022).

⁶⁷⁹ 87 Fed. Reg. 50069 (Aug. 15, 2022).

⁶⁸⁰ Article 34.1 states that, "Transitional Provision from NAFTA 1994" of the USMCA states that "Chapter 19 of NAFTA shall continue to apply to binational panel reviews related to final determinations published by a Party before the entry into force of this agreement," and the Secretariat established under the USMCA "shall perform the functions assigned to the NAFTA Secretariat under NAFTA Chapter 19 and under, for Chapter 19, the domestic implementation procedures adopted by the Parties in connection therewith, until the binational panel has rendered a decision and a Notice of Completion of Panel Review has been issued by the Secretariat pursuant to the Rules of Procedures for Article 1904 Binational Panel Reviews." USMCA, Ch. 34, Art 34.1, July 1, 2020.

Table 5.6 Active panel reviews under NAFTA Chapter 19 during 2022 and their statuses as of December 31, 2022

AD = antidumping; IN = injury; CVD = countervailing duty; AR = administrative review; ID = injury determination; USDOC = U.S. Department of Commerce; ITA = International Trade Administration (ITA); USITC = U.S. International Trade Commission.

Country of determination under panel review	Panel review number	Dispute	Investigating authority	Status
United States	USA-CDA-2020-1904-05	Fabricated structural steel from Canada (IN)	USITC	Stayed/suspended ^a
United States	USA-MEX-2020-1904-04	Fabricated structural steel from Mexico (IN)	USITC	Stayed/suspended ^b
United States	USA-CDA-2020-1904-02	Fabricated structural steel from Canada (AD)	USDOC/ITA	Stayed/suspended
United States	USA-CDA-2017-1904-03	Softwood lumber from Canada (AD)	USDOC/ITA	Active
United States	USA-CDA-2017-1904-02	Softwood lumber from Canada (CVD)	USDOC/ITA	Active

Source: USMCA Secretariat, "Publications," accessed April 25, 2022.

Notes:

^a Panel review completed effective September 28, 2023, based on a consent motion filed on behalf of the Full Member Subgroup of the American Institute of Steel Construction, LLC, requesting the termination of panel review. See notice dated September 28, 2023, published in the *Federal Register* by the U.S. Section, NAFTA Secretariat, International Trade Administration, U.S. Department of Commerce, at 88 Fed. Reg. 70930 (Oct. 13, 2023).

^b Panel review terminated based on a consent motion agreed to by all participants. See notice dated September 29, 2023, published in the *Federal Register* by the U.S. Section, NAFTA Secretariat, International Trade Administration, U.S. Department of Commerce, at 88 Fed. Reg. 68569 (Oct. 4, 2023).

Other U.S. FTAs in Force

Throughout 2022, U.S. officials engaged with FTA partners for discussions on several matters, including labor and environmental issues, enhancing trade and investment, and dispute settlement. Highlights of the FTA activities in 2022 are summarized below.

The U.S.-Israel FTA

The U.S. government continued to collaborate with the Israeli government to improve bilateral trade and investment. Specifically, the two worked to address standards-related and customs barriers to bilateral trade and focused on cooperation around services, investment, and digital trade. In 2022, Israel opened its market to imports of U.S. processed meat products.⁶⁸¹

The U.S.-Jordan FTA

The U.S. government engaged with the Jordanian government to monitor labor rights, continued work regarding labor standards, and addressed limitations to freedom of association and democratic worker representation in 2022. In October, USTR and the U.S. Department of Labor (USDOL) held the third Labor Subcommittee meeting, which reviewed implementation of the FTA's labor obligations and discussed areas of technical cooperation and capacity building.⁶⁸²

⁶⁸¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 53.

⁶⁸² USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 54.

The USDOL-funded International Labour Organization Better Work program worked with the Jordanian Ministry of Labor on various objectives within the garment sector in Jordan. The Better Work program and the Ministry of Labor supported the garment workers union in executing a strategic plan to be more transparent and democratic. The Better Work program also supported the most recent collective bargaining agreement for garment workers. The Better Work Program created a unit within the labor inspectorate to promote knowledge of labor standards and inspection best practices. The program's migrant mental health pilot resulted in 10 mental health providers offering services to workers.⁶⁸³

During 2022, the United States continued its efforts to allow the importation of U.S. genetically engineered food products into Jordan. Jordanian barriers in government procurement remain a concern.⁶⁸⁴

The U.S.-Chile FTA

In 2022, a deputy U.S. Trade Representative visited Santiago to meet with the new Chilean administration and ensure continuity in the trade relationship. Parties agreed to hold the next Free Trade Commission meeting in 2023. The Environmental Affairs Council and the Joint Commission for Environmental Cooperation held meetings in 2022.⁶⁸⁵

The U.S.-Singapore FTA

The United States and Singapore continued to work together on issues related to the environment, labor, digital trade, supply chains, and intellectual property. In 2022, the United States and Singapore deepened the bilateral trade relationship and coordinated on issues of regional and international importance.⁶⁸⁶

The U.S.-Australia FTA

The United States met regularly with Australia throughout 2022 to monitor implementation of the FTA and review market access concerns. The two governments discussed a number of trade priorities and in September 2022, held an FTA Sanitary and Phytosanitary Committee meeting to discuss market access concerns.⁶⁸⁷

The U.S.-Morocco FTA

The COVID-19 pandemic prevented joint committee discussions with Morocco in 2020 and 2021. Since the 2019 meeting, discussions have focused on agricultural and sanitary and phytosanitary issues, geographical indications, customs issues, intellectual property protection, and textile and apparel matters.⁶⁸⁸ In 2022, USTR continued to monitor labor issues in Morocco. The country continued to implement a domestic worker law that extends protections and benefits to workers through a minimum wage, a minimum age for employment, a limit on weekly hours worked, and a day of rest.⁶⁸⁹

⁶⁸³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 54.

⁶⁸⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 54.

⁶⁸⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 51.

⁶⁸⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 62.

⁶⁸⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 44.

⁶⁸⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 58–59.

⁶⁸⁹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 59.

The U.S.-Bahrain FTA

The United States-Bahrain Joint Committee—the central oversight body—did not meet during 2022. USTR and the USDOL engaged with the government of Bahrain on labor rights, particularly employment discrimination and freedom of association issues.⁶⁹⁰

The Dominican Republic-Central America FTA (CAFTA-DR)

In 2022, U.S. government agencies such as the USDOL, the U.S. Agency for International Development (USAID), and the U.S. Department of State continued promoting labor rights and improving the enforcement of labor laws in the CAFTA-DR countries. The Department of State also funded programs in Central America to combat labor violence and to create more gender-inclusive workplaces. Labor rights and enforcement of labor law initiatives included:

- U.S. government representatives and agencies worked to address labor concerns in the sugar industry with the government of the Dominican Republic. Efforts included a U.S. government delegation visit to sugarcane producing worksites and worker communities.⁶⁹¹ The USDOL published its seventh periodic review of its report regarding the working and living conditions of sugar sector workers.⁶⁹² It also awarded a \$3 million project to strengthen worker engagement and empowerment in the sugar sector.⁶⁹³ USTR and the government of the Dominican Republic created a technical working group to improve labor law enforcement in the Dominican Republic’s sugar industry.⁶⁹⁴ U.S. Customs and Border Protection issued a withhold release order for certain sugar products produced with forced labor in November 2022.⁶⁹⁵ The USDOL and the International Labour Organization provided technical assistance to the Dominican Republic to support labor law enforcement and improve inspection case management systems and inspector preparation.⁶⁹⁶
- The U.S. government conducted eight missions to Honduras to follow up on the Labor Rights Monitoring and Action Plan.⁶⁹⁷ The parties agreed to a final extension of plan that will end no later than September 30, 2023. The U.S. Department of State and the USDOL funded programs in Honduras to combat labor violence and support labor rights. The programs also aimed to reduce child labor within the coffee-producing sector and reduce child labor generally.⁶⁹⁸
- The USDOL continued to fund technical assistance projects to build the capacity of key Costa Rican agencies responsible for enforcing labor laws, with respect to minimum wages, hours of work, and occupational safety and health in the agricultural export sector. It also funded a technical assistance project focusing on vulnerable youths and employment.⁶⁹⁹

⁶⁹⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 45.

⁶⁹¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 46–47.

⁶⁹² The report was first published in 2013. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 46–47.

⁶⁹³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 46–47.

⁶⁹⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 46–47.

⁶⁹⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 47.

⁶⁹⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 47.

⁶⁹⁷ The Monitoring and Action Plan, created in 2015, addresses legal and regulatory frameworks for labor rights, undertaking institutional improvements, intensifying targeted enforcement, and improving transparency.

⁶⁹⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 47.

⁶⁹⁹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 48.

- The USDOL continued funding labor capacity-building projects in El Salvador, Guatemala, and Honduras focusing on labor market information systems and projects focusing on workers' rights, workplace safety, child labor, and forced labor.⁷⁰⁰
- The USDOL closed a completed \$17 million technical assistance project in El Salvador and Honduras to support vocational training and skill building for at-risk youth and to prevent exploitative child labor practices.⁷⁰¹
- USAID promoted the transfer of skills and experience from high-capacity organizations working on labor inclusion in Mexico to Central American organizations, including training 898 participants on labor inclusion of lesbian, gay, bisexual, transgender, and queer individuals; 275 people with disabilities; and 234 unionized individuals in Honduras on topics such as negotiation, psychosocial support, and maternal rights.⁷⁰²
- USAID also provided training to formalize small businesses in El Salvador, Guatemala, and Honduras through the International Labour Organization.⁷⁰³

In 2022, USTR—along with USAID and other U.S. government trade and donor agencies, such as the U.S. Departments of Agriculture, Commerce, Labor, and State—carried out bilateral and regional projects with CAFTA-DR partner countries to facilitate trade and inclusive economic opportunity, reduce trade costs, and increase trade capacity:

- The U.S. government worked with Guatemala to introduce an automated system for more transparency and to clear bonded shipments more quickly.⁷⁰⁴
- USTR and the Inter-American Development Bank used the CAFTA-DR Sourcing Database project to continue to help producers meet procedural and due diligence requirements. USTR also organized a four-part webinar training series focused on CAFTA-DR benefits, and it carried out extensive consultations on how U.S. and CAFTA-DR partner-country stakeholders can make better use of the CAFTA-DR short supply mechanism.⁷⁰⁵
- The Building El Salvador's Trade and Competitiveness in Textiles and Apparel to Strengthen Trade and Regional Economic Prosperity program held digital conferences on issues affecting the textile and apparel industry's competitiveness in the context of the global supply chain, utilization of CAFTA-DR, and the CAFTA-DR regional supply chain.⁷⁰⁶
- The Central America Customs, Border Management, and Supply Chain Trade Facilitation program provided technical assistance to the governments of El Salvador, Guatemala, and Honduras on implementing transparency reforms to improve and simplify customs clearance procedures.⁷⁰⁷

⁷⁰⁰ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 48.

⁷⁰¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 48.

⁷⁰² USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 48.

⁷⁰³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 48–49.

⁷⁰⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 49.

⁷⁰⁵ The short supply process is a streamlined commercial availability (short supply) determination process that allows fibers, yarns, or fabrics that are determined to be not commercially available in the United States and/or Central America-DR to be sourced from third parties to produce qualifying textiles and apparel goods. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 49; USDOC, "Summary of U.S.- CAFTA-DR FTA," accessed June 22, 2023.

⁷⁰⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 50.

⁷⁰⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 50.

- U.S. government agencies held various workshops on U.S. regulatory systems, internal standards, and WTO obligations for CAFTA-DR parties.⁷⁰⁸
- The Central America Regional Trade Facilitation and Border Management project, which aims to enhance economic growth in Central America, strengthened the region’s trade capacity and competitiveness through increased regional integration and lower administrative costs associated with trade.⁷⁰⁹

The U.S.-Oman FTA

The United States-Oman Joint Committee did not meet in 2022. USTR and the USDOL continued to monitor labor rights in Oman pursuant to labor provisions of the FTA. The USDOL recognized Oman as having made “moderate advancement” in its efforts to eliminate the worst forms of child labor law violations, including by adopting a new Trafficking in Persons National Action Plan for 2021–23.⁷¹⁰

The U.S.-Peru TPA

In 2022, the United States continued to work with Peru on issues related to the FTA’s Annex on Forest Sector Governance (Forest Annex) and Labor Chapter. The United States and Peru held meetings of the Environmental Affairs Council, Sub-Committee on Forest Sector Governance, Environmental Cooperation Commission, and others to review implementation of the Forest Annex. The United States continued to block timber imports from a Peruvian exporter on the basis of illegally harvested timber in the Peruvian exporter’s supply chain. In 2022, the USDOL continued to fund three technical assistance projects to improve Peru’s enforcement of labor laws; one project focused on strengthening labor law enforcement, and two projects focused on reducing child labor and forced labor. The USDOL also provided technical assistance in the Peruvian fishing sector. It funded a project in Peru to promote worker representation and advance unionization and collective bargaining in key trade sectors.⁷¹¹

The U.S.-Korea FTA (KORUS)

Throughout 2022, the United States continued to use committees and working groups to raise and resolve trade issues and ensure South Korea is implementing its obligations under the agreement, including the Committee on Agricultural Trade and Committee on Sanitary and Phytosanitary Matters meeting in February 2022; the Labor Affairs Council meeting in April 2022; the Automotive Working Group, Financial Services Committee, Committee on Trade in Goods, and Committee on Services and Investment meeting in November 2022; and the Committee on Textiles and Apparel, and the Committee on Trade Remedies meeting in December 2022.⁷¹²

Issues addressed in these meetings included:

- Impediments to U.S. meat and poultry exports;

⁷⁰⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 50.

⁷⁰⁹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 50.

⁷¹⁰ Oman’s National Committee to Combat Human Trafficking draws up its National Action Plan every three years using national and international reports and recommendations on combatting human trafficking, through the laws and regulations of the Sultanate of Oman. Government of Oman, “Oman Continues Work to Combat Human Trafficking,” July 30, 2023. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 59.

⁷¹¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 61–62.

⁷¹² USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 55.

- South Korea’s approval process for genetically engineered products;
- South Korea’s positive list system for pesticides;
- South Korea’s administration of its TRQs on agricultural products;
- Automotive related regulations;
- South Korea’s restrictions on the supply of legal services;
- South Korea’s implementation of KORUS obligations related to cross-border data transfers by financial service providers;
- Regulations affecting fair market access for online content; and
- Procurement of cloud computing services.⁷¹³

Throughout 2022, USTR continued to lead extensive U.S. government engagement with South Korea on agricultural biotechnology through information sharing on science-based policy and regulatory approaches for emerging technologies.⁷¹⁴

The U.S.-Colombia TPA

In October 2022, a deputy U.S. Trade Representative visited Bogotá to meet with the new Colombian administration and ensure continuity in the trade relationship. Parties agreed to hold the next Free Trade Commission meeting in 2023. The United States also resolved issues related to express shipment and discussed matters regarding front-of-package labeling and other technical barriers to trade.⁷¹⁵

The United States engaged with the Colombian government on labor issues throughout 2022, including through trips to Colombia by senior-level officials from USTR and the USDOL, as described below.

USTR and USDOL officials engaged with Colombian officials in Colombia and Washington, DC, to discuss labor issues. The USDOL has posted a Labor Attaché to the U.S. Embassy in Bogotá to monitor labor issues and engage with Colombian officials and stakeholders.

The Colombian government took steps to address labor issues. These included increasing the number of labor inspectors and resolving labor law–related cases reported in its Ministry of Labor’s electronic case management system.

The USDOL managed approximately \$26 million worth of technical assistance programs to improve labor law enforcement and promote labor rights. It recognized that Colombia has made “significant advancement” in eliminating the worst forms of child labor.⁷¹⁶

The U.S.-Panama TPA

The United States and Panama continued to work cooperatively in 2022 to address remaining implementation issues of the FTA. The Technical Capacity Building Committee held its first meeting in July 2022, and USDA is supporting three Technical Capacity Building Committee programs in the agricultural sector. The United States and Panama held meetings of the Environmental Affairs Council

⁷¹³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 55.

⁷¹⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 55.

⁷¹⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 51–52.

⁷¹⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 52.

and Environmental Cooperation Commission. Parties agreed on a new environmental cooperation work program for 2023–26.⁷¹⁷

The U.S. Federal Mediation and Conciliation Service continued to provide training to Panama’s Inter-American School for Social Dialogue, Tripartism and Conflict Resolution. The U.S. government also conducted a monitoring and engagement trip in August 2022 to meet with Panama’s Ministry of Labor and Ministry of Trade and Industry, labor unions, the private sector, human rights advocates, and academia.⁷¹⁸

Developments in FTA Negotiations during 2022

The United States did not pursue any traditional free trade agreements during 2022. The United States did pursue other trade initiatives, however, as discussed in chapters 4 and 6, such as the IPEF (see chapter 4), the United States-Taiwan Initiative on 21st Century Trade (see chapter 4), the U.S.-EU Trade and Technology Council (see chapter 6), the U.S.-UK Dialogue on the Future of Atlantic Trade (see chapter 6), the U.S.-Kenya Strategic Investment Partnership (see chapter 4), and various Japan initiatives (see chapter 4).

⁷¹⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 60.

⁷¹⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 60.

Chapter 6

U.S. Developments with Major Trading Partners in 2022

This chapter reviews U.S. bilateral trade relations in 2022 with selected major trading partners: the European Union (EU), Canada, Mexico, China, the United Kingdom (UK), and India. These trading partners were selected according to the size of their U.S. bilateral trade value in goods and services, as well as recent trade policy activities. For each trading partner, the chapter summarizes U.S. bilateral trade in goods and services and reports major developments in bilateral trade policies and programs during 2022. The statistics on U.S. trade in goods and services in 2022 can be found in the online [interactive dashboard](#).

Overview

U.S. exports to all leading trade partners increased from 2021 to 2022. U.S. exports to the EU experienced the largest percentage increase in 2022 relative to 2021, growing by 28.8 percent. U.S. exports to the UK and Taiwan also experienced notable increases of more than 20 percent (table 6.1). Exports to FTA partners accounted for 46.9 percent of total U.S. exports (\$968.4 billion) in 2022—the same share as in 2021.

Table 6.1 U.S. merchandise exports, by leading trading partners, annual, 2021–22

In billions of dollars and percentages.

Trading Partner	2021 (billions \$)	2022 (billions \$)	Absolute change, 2021–22 (billions \$)	Percentage change, 2021–22 (%)
Canada	309.6	356.5	46.8	15.1
Mexico	277.1	324.3	47.2	17.0
USMCA trading partners	586.7	680.8	94.1	16.0
Other FTA trading partners	238.1	287.6	49.5	20.8
FTA partner total	824.8	968.4	143.6	17.4
EU	272.3	350.8	78.5	28.8
China	151.4	154.0	2.6	1.7
Japan	74.7	80.2	5.4	7.3
United Kingdom	61.7	76.2	14.5	23.6
Taiwan	36.8	44.2	7.4	20.1
India	40.0	47.2	7.2	17.9
Vietnam	11.0	11.4	0.3	3.0
Other non-FTA trading partners	285.1	332.8	47.7	16.7
Non-FTA trading partner total	933.0	1,096.8	163.7	17.5
U.S. total exports	1,757.8	2,065.2	307.3	17.5

Source: USITC DataWeb/Census, total exports, accessed July 5, 2023.

U.S. imports from all leading trading partners also increased from 2021 to 2022. U.S. imports from Vietnam experienced the largest percentage increase relative to 2021 (25.1 percent), followed by

Canada (22.2 percent). U.S. imports from Taiwan, Mexico, and India also experienced significant increases in 2022, exceeding 15 percent (table 6.2). Imports from U.S. FTA partners accounted for 35.9 percent of total U.S. imports (\$1,164.3 billion) in 2022, a slight increase from 34.2 percent in 2021.

Table 6.2 U.S. merchandise imports, by leading trading partners, annual, 2021–22

In billions of dollars and percentages.

Trading Partner	2021 (billions \$)	2022 (billions \$)	Absolute change, 2021–22 (billions \$)	Percentage change, 2021–22 (%)
Canada	357.3	436.6	79.3	22.2
Mexico	382.6	454.8	72.2	18.9
USMCA trading partners	739.9	891.3	151.5	20.5
Other FTA trading partners	228.5	273.0	44.5	19.5
FTA partner total	968.3	1,164.3	196.0	20.2
EU	490.6	553.3	62.7	12.8
China	504.3	536.3	32.0	6.3
Japan	134.8	148.1	13.2	9.8
United Kingdom	56.3	64.0	7.7	13.7
Taiwan	77.0	91.7	14.7	19.1
India	73.3	85.5	12.2	16.7
Vietnam	101.9	127.5	25.6	25.1
Other non-FTA trading partners	422.3	471.9	49.6	11.7
Non-FTA trading partner total	1,860.6	2,078.2	217.7	11.7
U.S. total imports	2,828.9	3,242.5	413.7	14.6

Source: USITC DataWeb/Census, general imports, accessed July 5, 2023.

European Union

U.S.-EU Trade Overview

In 2022, the EU was the largest U.S. merchandise trading partner in terms of total trade by value.⁷¹⁹ U.S. merchandise exports to the EU grew by 28.8 percent from 2021 to \$350.8 billion in 2022 (figure 6.1). U.S. merchandise imports from the EU grew by 12.8 percent to \$553.3 billion in 2022, resulting in a bilateral U.S. merchandise trade deficit of \$202.5 billion (figure 6.1). The top U.S. exports in 2022 to the EU included crude petroleum (\$38.6 billion), aircraft engines and parts (\$26.0 billion), and liquified natural gas (\$25.2 billion).⁷²⁰ The top U.S. imports from the EU in 2022 were medicaments (\$33.8 billion), immunological products (\$24.9 billion), and certain passenger vehicles (\$21.3 billion).⁷²¹

In 2022, the EU was also the largest U.S. services trading partner. U.S. services exports to the EU increased by 19.0 percent from 2021 to \$241.2 billion in 2022 (figure 6.2). U.S. services imports from the EU grew by 27.9 percent from 2021 to \$170.0 billion in 2022, resulting in a bilateral U.S. services trade surplus of \$71.2 billion (figure 6.2). The top three U.S. services exports to the EU in 2022 were other business services (\$90.2 billion), charges for intellectual property (IP) use (\$48.1 billion), and financial services (\$31.3 billion). The leading services imports from the EU in 2022 were transport (\$47.8 billion), other business services (\$33.1 billion), and travel services (\$25.8 billion).⁷²²

⁷¹⁹ The UK formally withdrew from the EU on January 31, 2020. In this report, the EU refers to the remaining 27 member countries, and EU data exclude the UK for the entire time series.

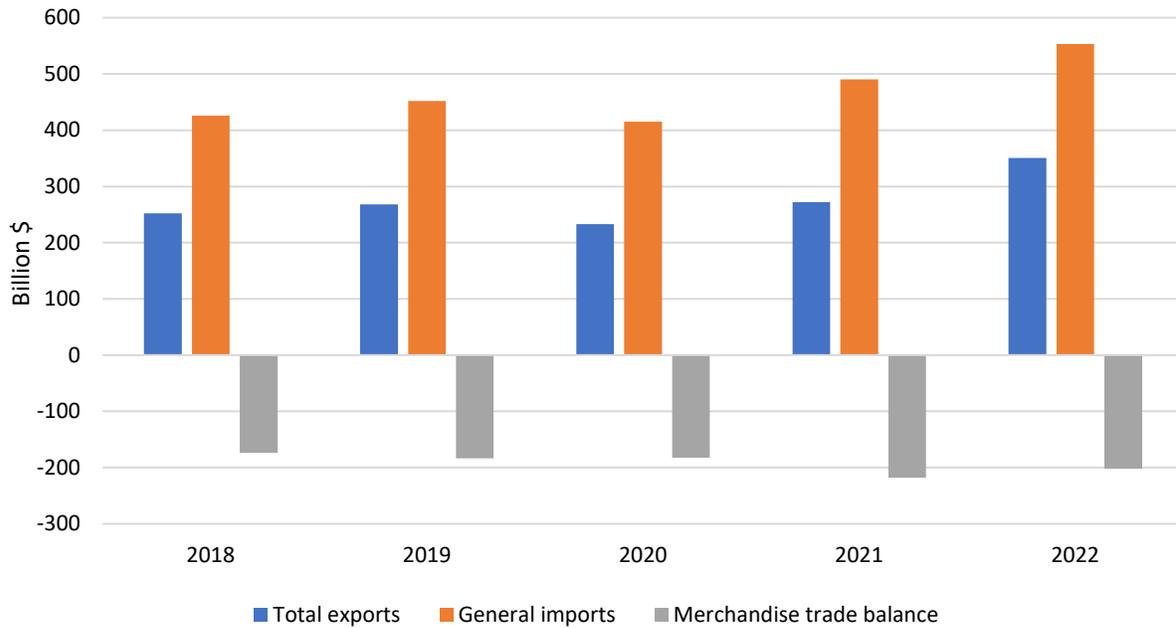
⁷²⁰ Crude petroleum refers to products classified under HS subheading 2709.00, aircraft engines and parts under HS subheading 8800.00, and liquified natural gas under HS subheading 2711.11.

⁷²¹ Medicaments refers to products classified under HS subheading 3004.90, immunological products under HS subheading 3002.15, and certain passenger vehicles under HS subheading 8703.23. USITC DataWeb/Census, total exports and general imports, accessed July 5, 2023.

⁷²² USDOC, BEA, "International Transactions," Table 1.3, "U.S. International Transactions, Expanded by Area and Country." June 22, 2023.

Figure 6.1 U.S. merchandise trade with the EU, annual, 2018–22

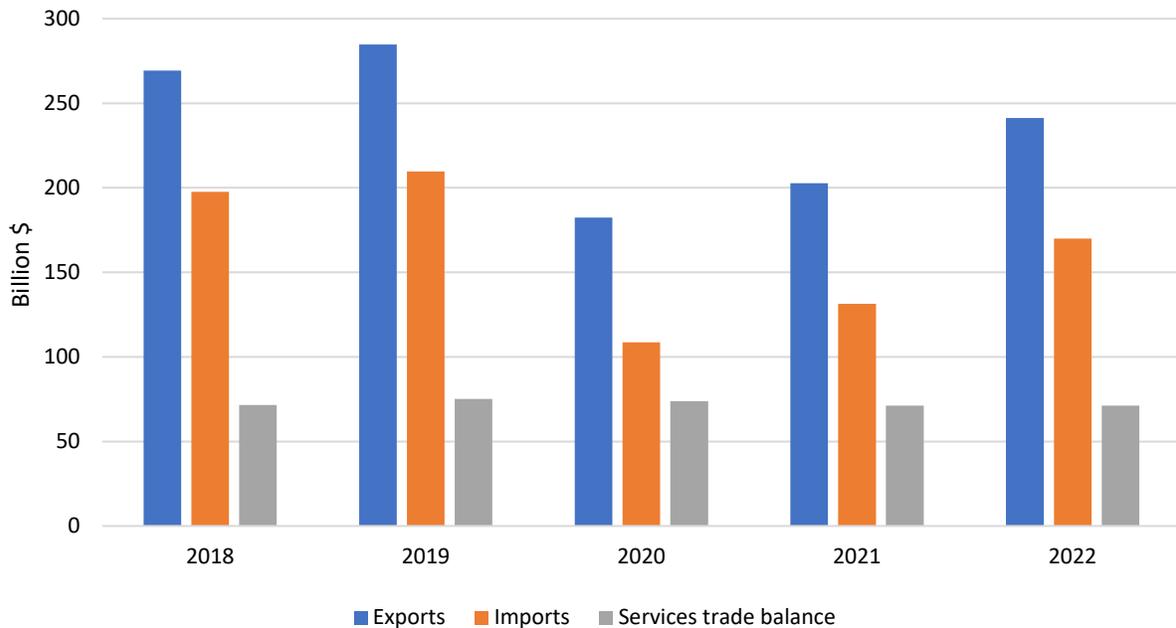
In billions of dollars. EU data exclude the UK; underlying data for this figure can be found in appendix [table A.15](#).



Source: USITC DataWeb/Census, accessed July 5, 2023.

Figure 6.2 U.S. total services trade with the EU, annual, 2018–22

In billions of dollars. EU data exclude the UK; underlying data for this figure can be found in appendix [table A.16](#).



Source: USDOC, BEA, “International Transactions,” Table 1.3, “U.S. International Transactions, Expanded by Area and Country.” June 22, 2023. Notes: Beginning with the *Year in Trade 2020* report, U.S. cross-border trade in services information includes data on U.S. exports and imports of government goods and services as well as private services. Previous editions of the report included private services only.

Major Trade Developments in 2022

This section summarizes major trade events in U.S.-EU trade relations during 2022. In addition to engaging in a number of salient trade topics under the U.S.-EU Trade and Technology Council in 2022, the two governments also made significant advancements in a decade-long suspension on bilateral trade in bivalve shellfish. The United States continued to monitor EU regulatory developments in the areas of geographical indications, agricultural biotechnology, and digital services. These topics are discussed in the following sections.

The two major trade partners also made progress in resolving issues concerning steel and aluminum overcapacity and data privacy. They also engaged in new and recurring forums, including the U.S.-EU Task Force on the Inflation Reduction Act, U.S.-EU Small and Medium-sized Enterprise (SME) Workshop, and the Joint Committee under the Bilateral Agreement on Prudential Measures Regarding Insurance and Reinsurance.

- On January 17, 2022, the United States and the EU jointly notified the WTO Dispute Settlement Body (DSB) that they had agreed to resort to arbitration regarding DS559 (“Additional Duties on Certain Products from the United States”) related to the 2018 steel and aluminum tariffs implemented by the United States; the arbitration was immediately and indefinitely suspended.⁷²³ In October 2021, the United States and the EU announced their intention to negotiate future arrangements for trade in the steel and aluminum sectors that take account of both global nonmarket excess capacity as well as the carbon intensity of these industries. Throughout 2022, USTR began to develop the Global Sustainable Steel and Aluminum Arrangement, which aims to restore market-oriented conditions and support the decarbonization of these sectors.⁷²⁴
- On September 28, 2022, the 11th U.S.-EU SME Workshop was held in Augsburg, Germany, where representatives from both governments discussed promotion opportunities for SME growth, access to digital tools and financing, and workforce development.⁷²⁵
- On October 25, 2022, the White House announced the launch of the U.S.-EU Task Force on the Inflation Reduction Act, aimed at promoting a fuller understanding of the law’s intentions, opportunities, and concerns for EU producers and serving as a platform for coordination among the two governments.⁷²⁶
- On July 14, 2022, the United States and the EU held the Fifth Joint Committee Meeting under the Bilateral Agreement on Prudential Measures Regarding Insurance and Reinsurance, during which representatives from both governments provided updates on the implementation of the Agreement.⁷²⁷
- On March 25, 2022, the two governments announced an agreement in principle on a new Data Privacy Framework to replace the Privacy Shield Framework that was invalidated by the EU Court of Justice in July 2022. U.S. President Joseph R. Biden, Jr. signed the Executive Order on

⁷²³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 116.

⁷²⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 191.

⁷²⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 175; USTR, “USTR, USDOC and SBA Convene 11th U.S.-EU SME Workshop,” September 28, 2022.

⁷²⁶ White House, “Launch of the US-EU Task Force on the Inflation Reduction Act,” October 25, 2022.

⁷²⁷ USTR, “U.S.-EU 5th JC Meeting on Prudential Measures,” July 14, 2022.

October 7, 2022, which directed relevant federal agencies to implement the U.S. commitments under the Data Privacy Framework.⁷²⁸

Trade and Technology Council

Throughout 2022, the United States engaged the EU on a number of critical trade issues under the auspices of the U.S.-EU Trade and Technology Council (TTC) and its 10 working groups.⁷²⁹ The TTC—first announced in June 2021—held its second ministerial meeting in Paris, France, on May 16, 2022.⁷³⁰ In addition to reaffirming their commitment to a strong transatlantic partnership, both governments condemned Russia’s invasion of Ukraine and promised to continue coordinating their efforts to mitigate the negative effects on Ukraine and the global economy.⁷³¹ Other discussion topics included (1) the importance of a rules-based multilateral system and WTO reform, (2) international standardization activities, (3) emerging technologies and regulations for their responsible development and use, (4) the green transition, (5) reducing barriers to bilateral trade and investment, and (6) engagement with labor unions, businesses, SMEs, and civil society.⁷³² Representatives of both governments recognized the progress that had been made on a number of key outcomes: notably, the creation of the tripartite Trade and Labor Dialogue;⁷³³ an artificial intelligence subgroup of the TTC; a U.S.-EU Strategic Standardization Information mechanism;⁷³⁴ a task force for public financing of information and communications technology and services; and an early alert dialogue on shared trade concerns regarding third-party countries.⁷³⁵

On December 5, 2022, the TTC held its third ministerial meeting outside Washington, DC, to discuss and recognize advances in the areas of digital infrastructure and emerging technologies.⁷³⁶ The United States and the EU cemented their commitment to promoting their shared values through a joint statement on

⁷²⁸ Exec. Order No. 14,086, 87 Fed. Reg. 62283 (October 14, 2022); USTR, *2023 National Trade Estimate*, March 31, 2023, 172.

⁷²⁹ USTR, “U.S.-E.U. Trade and Technology Council (TTC),” accessed August 7, 2023.

⁷³⁰ USITC, *The Year in Trade 2021*, August 2022, 180; USDOC, “U.S.-EU Joint Statement of the TTC,” May 16, 2022.

⁷³¹ The two governments also held multiple joint stakeholder outreach events in May and July 2022 inviting industry, academia, and civil society to share their thoughts on the topic of export controls for dual-use technology. USDOC, “U.S.-EU Joint Statement of the TTC,” May 16, 2022.

⁷³² USDOC, “U.S.-EU Joint Statement of the TTC,” May 16, 2022; EC, “2nd Joint EU-US Stakeholder Outreach on Dual Use Export Controls,” July 19, 2022.

⁷³³ The Trade and Labor Dialogue held its inaugural technical meeting on September 21, 2022, bringing together representatives from USTR and the DOL, their EU counterparts from the Directorate General for Employment and the Directorate General for Trade, and union and business leaders to discuss combating forced labor and upholding international labor standards in global supply chains; the future of work and the digital economy. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 20.

⁷³⁴ The aim of the U.S.-EU Strategic Standardization Information mechanism is to promote engagement in new standardization areas of opportunities, where standardization activities pose a challenge to U.S.-EU strategic interests and values. USDOC, “U.S.-EU Joint Statement of the TTC,” May 16, 2022.

⁷³⁵ USDOC, “U.S.-EU Joint Statement of the TTC,” May 16, 2022; White House, “U.S.-EU TTC Establishes Economic and Technology Policies & Initiatives,” May 16, 2022.

⁷³⁶ Specific activities in this area include: joint information and communication technologies initiatives with Jamaica and Kenya; the creation of a Joint Roadmap on Evaluation and Measurement Tools for Trustworthy AI and Risk Management; cooperation on Megawatt Charging Systems standard for heavy-duty vehicles; and new workstreams on additive manufacturing, recycling of plastics, digital identity standards cooperation, post-quantum encryption, and the Internet of Things (IoT). USTR, “U.S.-EU Joint Statement of the TTC,” December 5, 2022.

the Declaration for the Future of the Internet and the release of a report by a multi-stakeholder group of technical experts on recent internet shutdowns.⁷³⁷ Representatives of the U.S. and EU governments also took steps to advance trade-related environment, labor, and health initiatives by supporting research in public health data protection. They also launched a transatlantic initiative on sustainable trade and a Talent for Growth Task Force to “exchange best practices, and to serve as a catalyst for innovative skills policies.”⁷³⁸

Agriculture

The United States and the EU engaged on multiple issues regarding their agricultural trade relationship throughout 2022. After nearly a decade of suspended bilateral trade in live, and raw, bivalve shellfish, the United States and the EU concluded an equivalence determination of each other’s food safety systems. This allowed for a resumption in trade according to a streamlined process established by the U.S. Food and Drug Administration and the European Commission.⁷³⁹ A new National Oceanic and Atmospheric Administration health certification was implemented on February 27, 2022. Producers in Massachusetts and Washington State became eligible to export live, and raw, bivalve shellfish to the EU, and producers in Spain and the Netherlands became eligible to export these products to the United States.⁷⁴⁰

The United States also raised concerns with other issues related to agricultural trade, including new EU regulation regarding geographical indication (GI) protection and the use of GI signs and symbols, as well as the ongoing implementation of animal health certification requirements.⁷⁴¹ On October 26, 2022, the United States and the EU held semiannual consultations aimed at normalizing trade in agricultural biotechnology products.⁷⁴² The Office of the U.S. Trade Representative will continue to monitor and

⁷³⁷ The multi-stakeholder group includes the Open Observatory of Network Interference (a global community measuring internet censorship around the world), Internet Society (a global nonprofit organization), Measurement Lab (M-Lab) (a U.S. open-source project with contributors from civil society organizations, educational institutions, and private sector companies), and others. USTR, “U.S.-EU Joint Statement of the TTC,” December 5, 2022; USDOS, “Joint Statement on Protecting Human Rights Defenders Online,” December 2, 2022.

⁷³⁸ USTR, “U.S.-EU Joint Statement of the TTC,” December 5, 2022.

⁷³⁹ Bivalve shellfish include oysters, clams, mussels, and whole or roe-on scallops. U.S. industry estimates that this trade was worth approximately \$30 million annually in lost U.S. exports to the EU. USTR, “U.S. and EU to Resume Trade in Live, Bivalve Shellfish,” February 4, 2022; USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 179.

⁷⁴⁰ “New Molluscan Shellfish Health Certificate,” February 4, 2022; USFDA, “FDA Finalizes First Food Safety Equivalence Determination on Shellfish,” September 23, 2020.

⁷⁴¹ On April 1, 2022, the EU adopted Delegated Regulation 2022/891 on procedural rules for geographical indication (GI) protection and the use of GI signs and symbols and Implementing Regulation 2022/892 on agricultural and foodstuffs GIs. Throughout 2022, the two governments continued to engage on the ongoing implementation of animal health certification requirements for EU regulation 2020/2235, regarding products of animal origin, including dairy, eggs, meat, casings, animal byproducts, composite products, live animals, and aquatic animals. USTR, *2023 National Trade Estimate*, March 31, 2023, 171–72, 177–78.

⁷⁴² The semiannual U.S.-EU consultation occurs in accordance with “the 2008 decision by the United States and the European Union (EU) to suspend Article 22.6 arbitration proceedings associated with the WTO dispute settlement proceedings against the European Communities (the EU predecessor) regarding the approval and marketing of biotechnology products (DS291).” USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 183.

engage with the EU on the topics of specific GI recognition and animal health certification requirements.⁷⁴³

Interactive Computer Services

Despite previous engagement between the United States and the EU regarding digital services trade regulation, the European Commission put forth multiple related acts throughout 2022 that USTR indicates that it continues to monitor closely.⁷⁴⁴ On February 23, 2022, the European Commission proposed the Data Act, which would govern the transfer or sharing of business-to-business, business-to-consumer, and business-to-government nonpersonal data that are stored within industrial applications such as robots and wind farms, or smart devices like smart TVs and connected cars. As of December 31, 2022, the Data Act had not yet passed the EU legislative process. U.S. stakeholders remain concerned about the act's proposed requirements for the disclosure and accessibility of data that may be "protected by the data holder's or a third party's trade secrets, copyright, or other IP."⁷⁴⁵

The EU also published two other digital trade-related acts in October 2022, the Digital Markets Act and the Digital Services Act, which the United States considers as potential barriers to U.S.-EU trade; the acts both went into effect in November 2022.⁷⁴⁶ The Digital Markets Act provides the European Commission with new authority to regulate the business practices of certain large digital services suppliers.⁷⁴⁷ By comparison, the Digital Services Act regulates certain online services, stipulating rules for how content is shared and moderated online through due diligence obligations for online platforms and other online intermediaries.⁷⁴⁸

Canada

U.S.-Canada Trade Overview

In 2022, Canada was the second-largest U.S. merchandise trading partner in terms of total trade, after the EU. U.S. merchandise exports to Canada grew by 15.1 percent from 2021 to \$356.5 billion in 2022 (figure 6.3). U.S. merchandise imports from Canada grew by 22.2 percent from 2021 to \$436.6 billion in 2022, resulting in a bilateral U.S. merchandise trade deficit of \$80.1 billion (figure 6.3). The top U.S. exports to Canada in 2022 included crude petroleum (\$11.9 billion), light petroleum oils (\$10.5 billion), and aircraft and aircraft engines and parts (\$9.0 billion).⁷⁴⁹ The top U.S. imports from Canada in 2022

⁷⁴³ USTR, *2023 National Trade Estimate*, March 31, 2023, 172, 177–78.

⁷⁴⁴ USTR, *2023 National Trade Estimate*, March 31, 2023, 183–84.

⁷⁴⁵ EC, "Proposal for a Regulation of the European Parliament and of the Council on harmonized rules on fair access to and use of data (Data Act)," February 23, 2022; USTR, *2023 National Trade Estimate*, March 31, 2023, 176–84.

⁷⁴⁶ USTR, *2023 National Trade Estimate*, March 31, 2023, 176–84.

⁷⁴⁷ USTR, *2023 National Trade Estimate*, March 31, 2023, 183–84.

⁷⁴⁸ Under the Digital Services Act, for example, "any user will be able to flag illegal content, and will also have a clear means of contesting platforms' content moderation, both to the platform and through out-of-court mechanisms in their country." EU, Regulation (EU) 2022/2065 of the European Parliament and of the Council of October 19, 2022, on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act), O.J. (L277) 1; EC, "Digital Services Act: Questions and Answers," April 25, 2023.

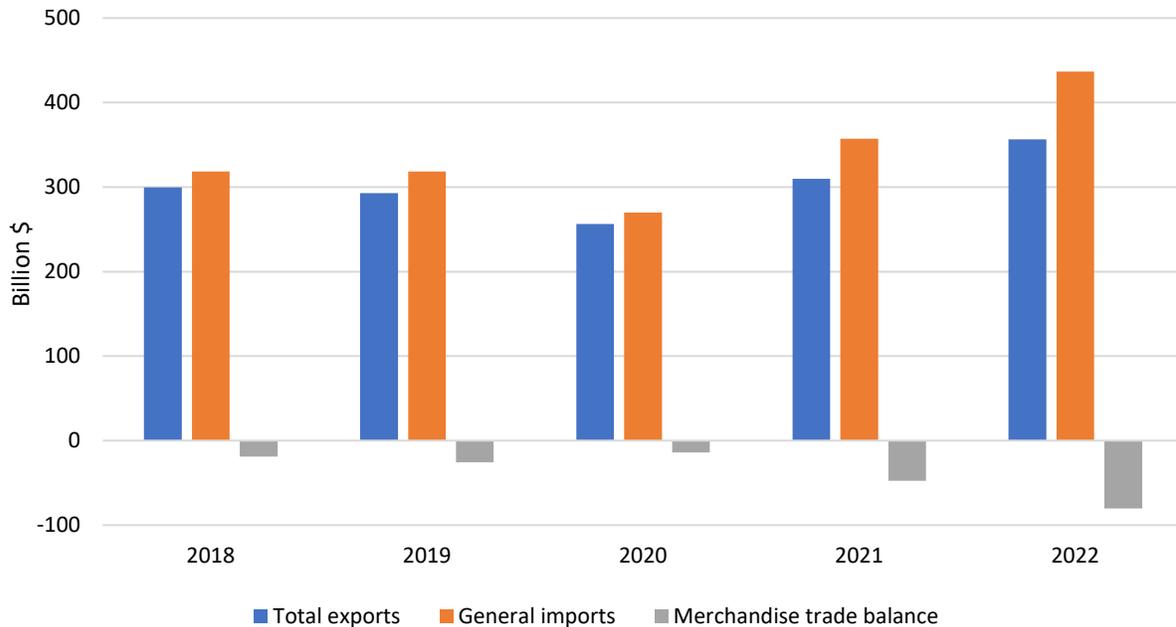
⁷⁴⁹ Crude petroleum refers to products classified under HS subheading 2709.00, light petroleum oils under HS subheading 2710.12, and aircraft engines and parts under HS subheading 8800.00.

were crude petroleum (\$113.4 billion), natural gas (\$15.2 billion), and certain passenger vehicles (\$10.7 billion).⁷⁵⁰

In 2022, Canada was the third-largest U.S. services trading partner, after the EU and the UK. U.S. services exports to Canada increased by 24.8 percent from 2021 to \$71.3 billion in 2022 (figure 6.4). U.S. services imports from Canada grew by 20.5 percent from 2021 to \$44.6 billion in 2022, resulting in a bilateral U.S. services trade surplus of \$26.6 billion (figure 6.4). The top three U.S. services exports to Canada in 2022 were other business services (\$20.2 billion), travel services (\$13.2 billion), and financial services (\$9.6 billion). The leading services imports from Canada in 2022 were other business services (\$10.4 billion); telecommunications, computer, and information services (\$10.3 billion); and transport services (\$6.6 billion).⁷⁵¹

Figure 6.3 U.S. merchandise trade with Canada, annual, 2018–22

In billions of dollars. Underlying data for this figure can be found in appendix [table A.15](#).



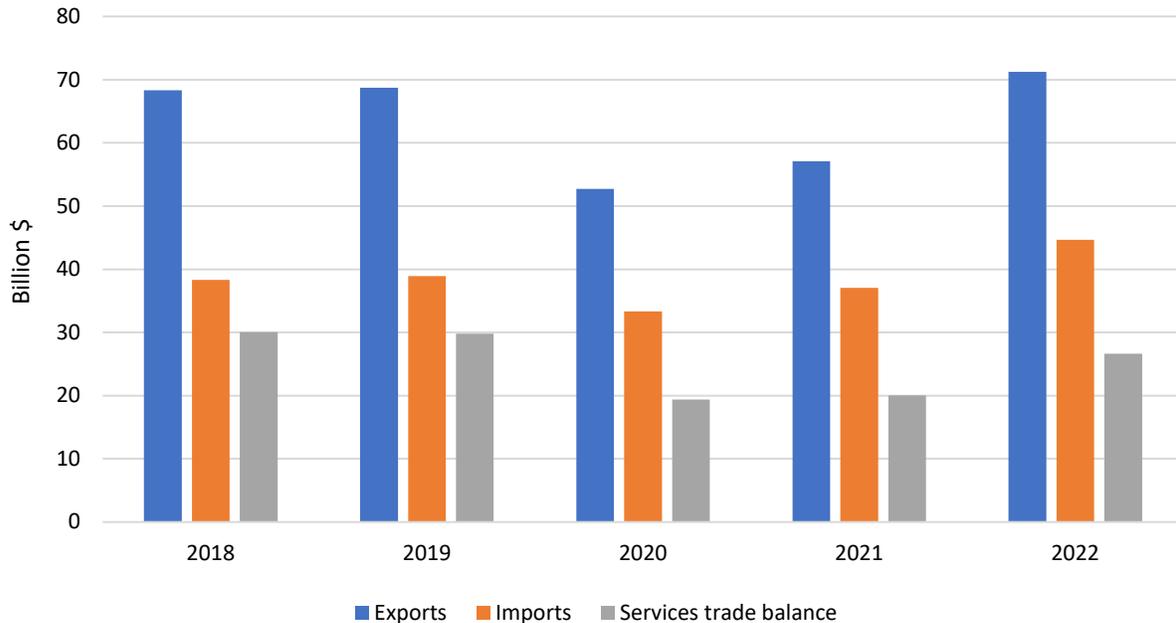
Source: USITC DataWeb/Census, accessed July 5, 2023.

⁷⁵⁰ Natural gas refers to products classified under HS subheading 2711.21, and certain passenger vehicles under HS subheading 8703.23. USITC DataWeb/Census, total exports and general imports, accessed July 5, 2023.

⁷⁵¹ USDOC, BEA, “International Transactions,” Table 1.3, “U.S. International Transactions, Expanded by Area and Country.” June 22, 2023.

Figure 6.4 U.S. total services trade with Canada, annual, 2018–22

In billions of dollars. Underlying data for this figure can be found in appendix [table A.16](#).



Source: USDOC, BEA, “International Transactions,” Table 1.3, “U.S. International Transactions, Expanded by Area and Country.” June 22, 2023. Notes: Beginning with the *Year in Trade 2020* report, U.S. cross-border trade in services information includes data on U.S. exports and imports of government goods and services as well as private services. Previous editions included private services only.

Major Trade Developments in 2022

This section summarizes the major trade events in the U.S.-Canada trade relations in 2022. There were several developments in trade disputes under the U.S.-Mexico-Canada Agreement (USMCA) dispute settlement process during 2022. In addition, the United States reiterated concerns about Canada’s proposed Digital Services Tax and the two governments made progress in their collaborative efforts toward clean energy policy.

- On January 4, 2022, a USMCA dispute settlement panel released its final report in favor of U.S. claims that Canada’s allocation of dairy tariff-rate quotas (TRQs) —specifically the set-aside of a percentage of each dairy TRQ exclusively for Canadian processors—is inconsistent with its commitments under the USMCA.⁷⁵² After determining Canadian compliance efforts to be inadequate, the United States requested the formation of a USMCA dispute settlement panel over Canada’s allocation measures in May and December 2022.⁷⁵³ For more information, see chapter 5.
- On January 13, 2022, Canada stated its intention to join Mexico’s request to establish a USMCA dispute settlement panel concerning the interpretation of an aspect of the agreement’s rules of

⁷⁵² USTR, *USMCA Panel Report on Canada’s Dairy TRQ Allocation Measures*, December 20, 2021.

⁷⁵³ USTR, *2023 National Trade Estimate*, March 31, 2023, 67; USTR, “U.S. Requests Dispute Consultations on Canadian Dairy TRQ Policies,” December 20, 2022; USTR, “U.S. Initiates Second Dispute on Canadian Dairy TRQ Policies,” May 25, 2022.

origin for automotive vehicles. In December 2022, the panel completed its final report finding, “that the United States was incorrectly interpreting the methodologies for ascertaining whether ‘core parts’ qualified as originating in determining whether a passenger vehicle or light truck qualified for preferential treatment under the agreement.”⁷⁵⁴

- On February 1, 2022, a USMCA dispute settlement panel released its report determining the U.S. section 201 tariffs on certain crystalline silicon photovoltaic (CSPV) products from Canada were inconsistent with commitments under the USMCA and rejected the U.S. argument that Canada’s claims should have been made under the North American Free Trade Agreement (NAFTA).⁷⁵⁵ Nevertheless, on February 4, 2022, President Biden issued a proclamation extending the safeguard measure on CSPV products, including those from Canada.⁷⁵⁶ On July 7, 2022, the United States and Canada jointly announced a memorandum of understanding (MOU) settling the solar dispute.⁷⁵⁷ For more information, see chapter 5.

Digital Services Tax

In 2022, the United States continued to communicate its concerns over Canada’s data protection and digital services trade regime proposals.⁷⁵⁸ In February 2022, USTR filed comments with the Canadian government urging it to terminate its proposed unilateral Digital Services Tax Act and instead recommit to the Organisation for Economic Co-operation and Development (OECD)/G20 Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalization of the Economy.⁷⁵⁹ Again in July and November 2022, U.S. Trade Representative Katherine Tai reiterated U.S. concerns over Canada’s proposed Digital Services Tax and pending legislation in the Canadian Parliament that could impact digital streaming services.⁷⁶⁰ ⁷⁶¹ Despite USTR’s efforts to raise concerns with its Canadian counterparts, the Canadian government on November 3, 2022, reemphasized its plans to move forward on the proposed Digital Services Tax.⁷⁶²

Clean Energy Policy

In 2022, the United States and Canada engaged in multiple forums on the topic of clean energy and environmental trade policy. Canada has been actively developing its Clean Fuel Regulation, with the intention of regulating the importation of renewable fuels and their feedstocks for use in transport fuel.⁷⁶³ Since the announcement of this new policy development, USTR and the U.S. Department of

⁷⁵⁴ USITC, *USMCA Auto ROOs*, June 2023, 41.

⁷⁵⁵ USTR, “Final Report USMCA Solar,” February 1, 2022.

⁷⁵⁶ Presidential Proclamation 10339, 87 Fed. Reg. 7357 (February 9, 2022).

⁷⁵⁷ USTR, “U.S. and Canada Announce Solar Trade MOU,” July 7, 2022.

⁷⁵⁸ Government of Canada, “Explanatory Notes for the Draft Digital Services Tax Act,” August 4, 2023.

⁷⁵⁹ The G20 is an international forum, made up of 19 countries and the European Union, representing the world’s major developed and emerging economies. USTR, “USTR Comments on Canada’s Proposed DST,” February 22, 2022.

⁷⁶⁰ USTR, “USTR Tai Meeting with Canadian Minister Mary Ng,” July 8, 2022; USTR, “USTR Tai Meeting with Canadian Minister Ng,” November 30, 2022.

⁷⁶¹ In September 2022, the Province of Quebec brought into force new provisions to amend Canada’s data protection regime limiting the transfer of personal information to jurisdictions with regimes deemed “adequate” to protect personal information. USTR, *2023 National Trade Estimate*, March 31, 2023, 70.

⁷⁶² USTR, *2023 National Trade Estimate*, March 31, 2023, 60–61.

⁷⁶³ Government of Canada, “Canada Clean Electricity Standard,” March 15, 2022.

Agriculture (USDA) have engaged in discussions with their Canadian counterparts, urging transparency in the announcement of changes to its regulation so that stakeholders could have adequate opportunity to understand and comment on it.⁷⁶⁴ In March 2022, Canada confirmed that it would periodically notify the WTO of any amendments to its new Clean Fuel Regulation and has since carried out this commitment with two separate notifications that are especially important to U.S. biofuel producers.⁷⁶⁵ On November 7, 2022, the United States and Canada jointly announced the Great Lakes/Saint Lawrence Seaway System Green Shipping Corridor Network Initiative, which accelerates the use of low- and zero-carbon emissions ships, deploys other emissions reduction programs, and measures emissions reductions through public and private information sharing.⁷⁶⁶

Mexico

U.S.-Mexico Trade Overview

In 2022, Mexico was the third-largest partner in terms of total U.S. merchandise trade. U.S. merchandise exports to Mexico increased by 17.0 percent to \$324.3 billion in 2022 and U.S. merchandise imports from Mexico increased by 18.9 percent to \$454.8 billion in 2022, resulting in a U.S. merchandise trade deficit of \$130.5 billion (figure 6.5). Top U.S. exports to Mexico in 2022 included light oils (\$21.5 billion), petroleum oils other than crude (\$18.0 billion), and natural gas (\$11.5 billion). Top U.S. imports from Mexico in 2022 were computers (\$33.7 billion), crude petroleum (\$20.7 billion), and certain passenger vehicles (\$19.7 billion).⁷⁶⁷

In 2022, Mexico was the sixth-largest partner in U.S. cross-border services trade. U.S. services exports to Mexico increased by 21.4 percent to \$37.7 billion in 2022 and U.S. services imports from Mexico increased by 35.5 percent to \$38.3 billion in 2022, resulting in a U.S. services trade deficit of \$0.6 billion (figure 6.6). The top three U.S. services exports to Mexico were travel (\$15.5 billion), other business services (\$6.7 billion), and transport (\$3.5 billion). The leading services imports from Mexico were travel (\$23.1 billion), transport (\$6.9 billion), and other business services (\$5.4 billion).⁷⁶⁸

⁷⁶⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 178.

⁷⁶⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 178.

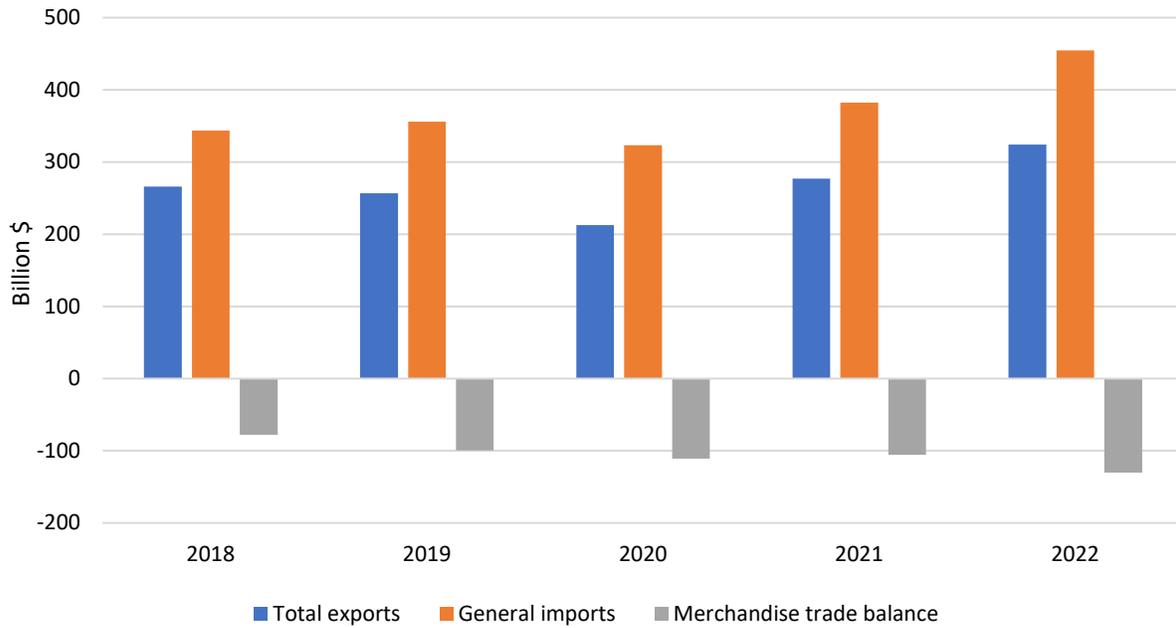
⁷⁶⁶ USDOS, "Green Shipping Corridors Framework," April 12, 2022.

⁷⁶⁷ Light oils refer to products classified under HS subheading 2710.12, petroleum oils other than crude under HS subheading 2710.19, gaseous natural gas under HS subheading 2711.21, computers under HS subheading 8471.50, crude petroleum under HS subheading 2709.00, and passenger vehicles under HS subheading 8703.23. USITC DataWeb/Census, general imports and total exports, accessed July 5, 2023.

⁷⁶⁸ USDOC, BEA, "International Transactions," Table 1.3, "U.S. International Transactions, Expanded by Area and Country." June 22, 2023.

Figure 6.5 U.S. merchandise trade with Mexico, annual, 2018–22

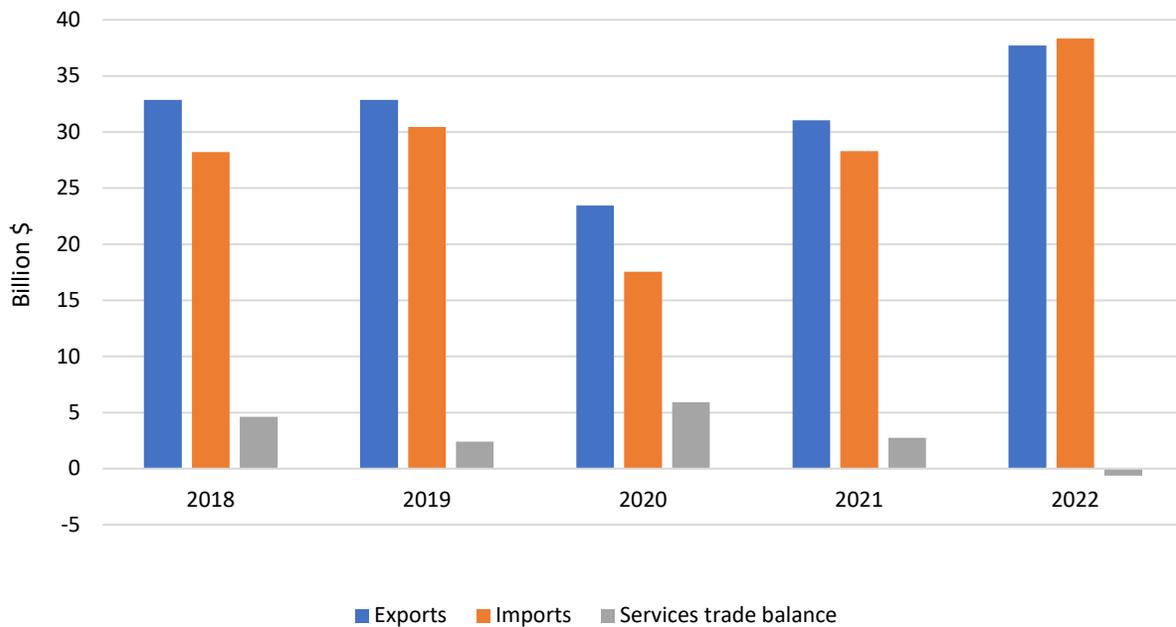
In billions of dollars. Underlying data for this figure can be found in appendix [table A.15](#).



Source: USITC DataWeb/Census, total exports and general imports, accessed July 5, 2023.

Figure 6.6 U.S. total services trade with Mexico, annual, 2018–22

In billions of dollars. Underlying data for this figure can be found in appendix [table A.16](#).



Source: USDOC, BEA, “International Transactions,” June 22, 2023, Table 1.3, “U.S. International Transactions, Expanded by Area and Country.”
 Notes: Beginning with the *Year in Trade 2020* report, U.S. cross-border trade in services information includes data on U.S. exports and imports of government goods and services as well as private services. Previous editions included private services only.

Major Trade Developments in 2022

This section summarizes major events in U.S.-Mexico trade relations during 2022. The continued implementation of the USMCA was the major focus of U.S.-Mexico trade relations during 2022, and major developments are summarized below and discussed in chapter 5. In addition, several developments continued in 2022 related to the U.S.-Mexico High-Level Economic Dialogue, which was reestablished in 2021, and discussions of Mexico's 2020 Corn Decree, which phases out Mexican use and importation of GE corn and the herbicide glyphosate by 2024. Further details on these two developments are discussed in the following sections.

During 2022, the United States engaged with Mexico on several issues through USMCA mechanisms, including:

- The United States pursued four cases against automotive facilities in Mexico, using the Rapid Response Mechanism under the USMCA. For a more detailed discussion, see the Dispute Settlement section under the USMCA in chapter 5.
- In July 2022, the United States requested consultations under the USMCA over Mexico's energy policies, following several changes to Mexico's energy laws that the request alleged harms U.S. companies' abilities to operate in Mexico.⁷⁶⁹ For a more detailed discussion of developments during 2022, see the Dispute Settlement section under the USMCA in chapter 5.
- Additionally, the United States and Mexico began consultations on fisheries enforcement, among other USMCA developments.⁷⁷⁰

In other trade developments between the United States and Mexico in 2022:

- Mexico joined the Americas Partnership for Economic Prosperity (APEP), a framework for regional cooperation that was announced at the Summit of the Americas in June 2022 (see discussion in chapter 4).⁷⁷¹
- In May, the United States began shipping fresh potatoes to Mexico beyond the border zone. According to USTR, Mexico is the second-largest export market for fresh potatoes.⁷⁷² The expansion in market access followed a 2021 Supreme Court of Mexico ruling that authorized the promulgation of regulatory requirements for importation of potatoes in Mexico.⁷⁷³

⁷⁶⁹ For a description of changes in Mexico's energy policy, also see USITC, *The Year in Trade 2021*, August 2022, 187–89; USTR, "U.S. Requests Consultations Over Mexico's Energy Policies," July 20, 2022.

⁷⁷⁰ USTR, "USTR Announces USMCA Environment Consultations with Mexico," February 10, 2022.

⁷⁷¹ USTR, "Biden-Harris Administration Advances Americas Partnership," January 2023.

⁷⁷² The border zone is the 26-kilometer zone along the U.S.-Mexico border. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 180.

⁷⁷³ The ruling indicated that the technical authority SENASICA had the authority to promulgate the requirements for importations of potatoes. USTR, *2023 National Trade Estimate*, March 31, 2023, 281; USDA, FAS, *Phytosanitary Requirement Sheet Published for US Fresh Potato Imports*, November 8, 2021; Fierro, "Pese a Los Riesgos, La Suprema Corte Permite La Entrada al País de La Papa de EU (Despite the Risks, the Supreme Court Allows U.S. Potatoes to Enter the Country)," April 28, 2021; Government of Mexico, Review of Protection Order 598/2020, July 14, 2021.

U.S.-Mexico High-Level Economic Dialogue

The U.S.-Mexico High-Level Economic Dialogue was reestablished in 2021, following its suspension during the Trump administration.⁷⁷⁴ The High-Level Economic Dialogue is a platform for collaboration on economic and commercial issues. Senior government officials convened the High-Level Economic Dialogue in September 2022 and discussed accomplishments and future areas of collaboration, highlighting work on climate change and border transportation, as well as electromobility, digital economy, workforce development, and supply chain resilience.⁷⁷⁵

The High-Level Economic Dialogue is divided into four pillars. Descriptions of each pillar and selected activities in 2022⁷⁷⁶ follow:

- Pillar I seeks to improve resilience of U.S.-Mexico supply chains. In 2022, the United States and Mexico set up a semiconductor and information and communications technology (ICT) supply chain working group. The two countries funded projects addressing transboundary pollution and modernization of border infrastructure.⁷⁷⁷ The United States and Mexico also collaborated through the 2022 Supply Chain Ministerial, which contributed to High-Level Economic Dialogue goals to increase the share of zero-emissions vehicles.⁷⁷⁸
- Pillar II initiatives promote sustainable development in southern Mexico and Central America. In 2022, USAID supported two projects developing agricultural livelihoods in Southern Mexico.⁷⁷⁹
- Pillar III addresses regulatory compatibility and security in ICT. The United States and Mexico held a bilateral forum on fifth-generation (5G) development and ICT in October 2022, and a forum on cybersecurity best practices in September 2022.⁷⁸⁰
- Pillar IV promotes economic opportunities for SMEs and underserved communities. The High-Level Economic Dialogue supported technical exchanges on workforce development, developing collaborations with educational institutions to address workforce needs in priority sectors, and training women entrepreneurs in Mexico.⁷⁸¹ The Second Trilateral Forum on Workforce Development in North America, held by the USMCA Competitiveness Committee in September 2022, complemented this work.⁷⁸²

Biotechnology Policy

On December 31, 2020, the Mexican Presidential Decree (Corn Decree) announced the phaseout of genetically engineered (GE) corn used for human consumption as well as the phaseout of the use of the

⁷⁷⁴ White House, “Fact Sheet: U.S.-Mexico Bilateral Cooperation,” June 8, 2021.

⁷⁷⁵ White House, “Joint Statement Following the 2022 U.S.-Mexico Economic Dialogue,” September 13, 2022.

⁷⁷⁶ For discussion of goals under each pillar, see USITC, *The Year in Trade 2021*, August 2022, 187.

⁷⁷⁷ White House, “2022 U.S. – Mexico High-Level Economic Dialogue,” September 13, 2022.

⁷⁷⁸ White House, “2022 U.S. – Mexico High-Level Economic Dialogue,” September 13, 2022; USDOS, “Supply Chain Ministerial,” accessed August 1, 2023.

⁷⁷⁹ White House, “2022 U.S. – Mexico High-Level Economic Dialogue,” September 13, 2022.

⁷⁸⁰ White House, “2022 U.S. – Mexico High-Level Economic Dialogue,” September 13, 2022.

⁷⁸¹ White House, “2022 U.S. – Mexico High-Level Economic Dialogue,” September 13, 2022.

⁷⁸² Government of Mexico, “Second Trilateral Forum on Workforce Development in North America,” September 12, 2022.

herbicide glyphosate in Mexico by January 31, 2024.⁷⁸³ The Corn Decree revokes existing authorizations for GE corn used for food and prohibits new authorizations.⁷⁸⁴ In 2022, Mexican officials indicated their intent to reduce importation of all GE corn from the United States while trying to secure non-GE corn imports by contracting directly with producers of non-GE corn to meet Mexico's domestic needs.⁷⁸⁵

In 2022, U.S. officials raised the Corn Decree for discussion at several high-level meetings. USTR Tai raised the Corn Decree for discussion on the margins of the USMCA Free Trade Committee meeting.⁷⁸⁶ U.S. Secretary of Agriculture Thomas Vilsack met with Mexican President Andrés Manuel López Obrador on November 28, 2022, and communicated that the GM corn import ban would significantly impact Mexico's agricultural industries and consumers as well as U.S. farmers.⁷⁸⁷ Secretary Vilsack and USTR Tai met with senior Mexican officials on December 16, 2022, to discuss U.S. concerns about the restrictions on importation of GE corn and other GE products. Mexico proposed potential amendments to the Corn Decree.⁷⁸⁸

The United States exported \$5.0 billion of corn grain to Mexico in 2022, supplying about 95 percent of Mexico's corn imports.⁷⁸⁹ Mexico uses both white corn (for human consumption, primarily for making tortillas) and yellow corn (for livestock feed and industrial uses) and imports 40 percent of its total corn demand.⁷⁹⁰ Most U.S. corn imported by Mexico is used as livestock feed, but some is used in processed foods.⁷⁹¹ In 2022, 90 percent of U.S. corn acreage was planted under GE varieties; no GE corn is grown in Mexico.⁷⁹² Cotton is the only GE crop grown commercially in Mexico. Cotton is not addressed specifically in the Corn Decree; however, some GE cotton grown in Mexico is engineered with glyphosate tolerance and no new cotton varieties have been approved by Mexico since 2019.⁷⁹³

⁷⁸³ GE crops are engineered for a variety of traits, including herbicide tolerance (commonly to glyphosate), disease and pest resistance, and enhanced nutritional content. USDA, FAS, *Mexico Publishes Decree to Ban Glyphosate and GE Corn*, January 6, 2021; USDA, "Biotechnology," accessed August 1, 2023; Government of Mexico, *Decree to Replace Glyphosate (the Corn Law)*, December 31, 2020.

⁷⁸⁴ Under Mexican law, each event (trait) must be authorized whether for sale or planting. USDA, FAS, *Agricultural Biotechnology Annual*, December 30, 2022, 6.

⁷⁸⁵ Garrison and Barrera, "Mexico to Proceed with GMO Corn Ban," October 27, 2022.

⁷⁸⁶ USTR, "Readout of Ambassador Tai's Meeting with Mexico's Secretary of Economy," July 8, 2022.

⁷⁸⁷ USDA, FAS, "Secretary Vilsack Statement on Trip to Mexico," November 28, 2022.

⁷⁸⁸ A February 2023 decree superseded the original Corn Decree, immediately banning the use of GE corn in tortilla production, extending the phaseout of glyphosate by two months, and indicating Mexico should phase out the use of GE corn for other uses. USTR requested technical consultations with Mexico under the USMCA SPS chapter in March 2023. USDA, FAS, "Joint Statement from Secretary Vilsack and Ambassador Tai," December 16, 2022; USTR, "USTR Announces Consultations with Mexico on Agricultural Biotechnology," March 6, 2023.

⁷⁸⁹ Corn grain is classified under HTS 100590. USITC DataWeb/Census, total exports, accessed July 5, 2023. USDA, FAS, *Grain and Feed Annual: Mexico*, March 22, 2023, 6.

⁷⁹⁰ USDA, FAS, *Grain and Feed Annual: Mexico*, March 22, 2023, 5.

⁷⁹¹ USDA, FAS, *Mexico Publishes Decree to Ban Glyphosate and GE Corn*, January 6, 2021.

⁷⁹² Genetically engineered corn is typically herbicide tolerant (e.g., to glyphosate), resistant to the soil bacterium *Bacillus thuringiensis* (Bt), or both. USDA ERS, "Biotechnology," September 14, 2022; USDA, FAS, *Mexico Publishes Decree to Ban Glyphosate and GE Corn*, January 6, 2021.

⁷⁹³ USDA, FAS, *Cotton and Products Annual: Mexico*, April 4, 2023, 2–3.

China

U.S.-China Trade Overview

In 2022, China was the fourth-largest U.S. merchandise trading partner in terms of total trade. U.S. merchandise exports to China grew by 1.7 percent to \$154.0 billion in 2022 and U.S. merchandise imports from China grew by 6.3 percent to \$536.3 billion in 2022, resulting in a bilateral U.S. merchandise trade deficit of \$382.3 billion (figure 6.7). The top U.S. exports to China in 2022 included soybeans (\$17.9 billion), crude petroleum (\$6.8 billion), and processors and controllers (\$6.6 billion). The top U.S. imports from China in 2022 were smartphones (\$50.2 billion), portable computers and tablets (\$49.2 billion), and wheeled toys and other toys (\$16.3 billion).⁷⁹⁴

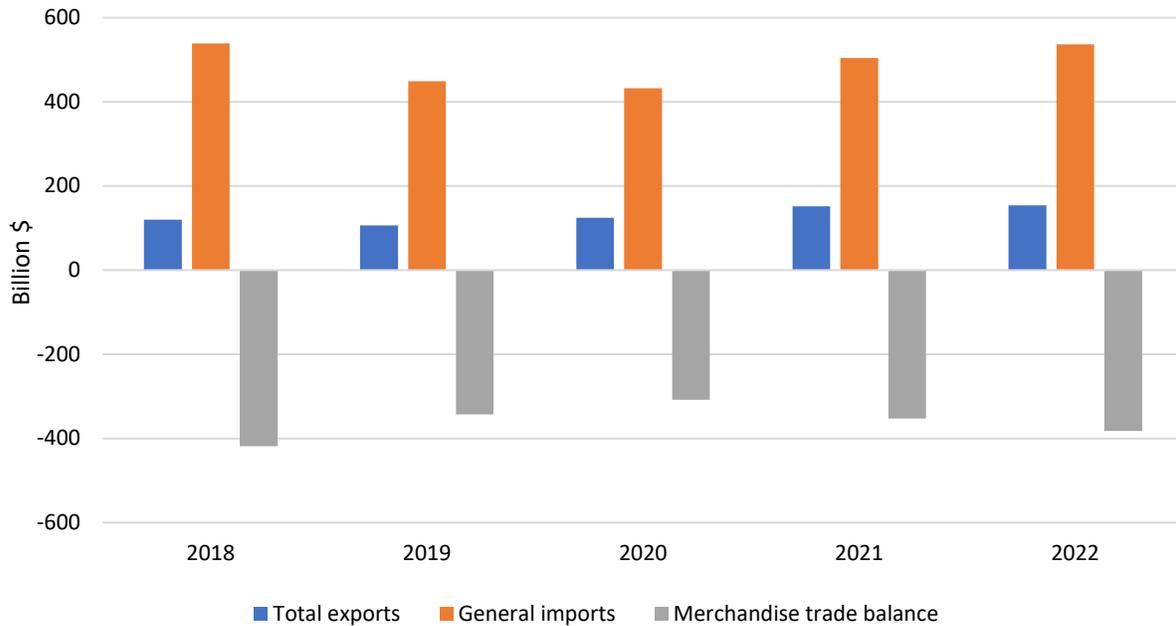
In 2022, China was the seventh-largest U.S. services trading partner. U.S. services exports to China increased by 5.2 percent to \$41.5 billion in 2022 and U.S. services imports from China rose by 24.1 percent to \$26.6 billion in 2022, resulting in a bilateral U.S. services trade surplus of \$14.9 billion (figure 6.8). The top three U.S. services exports to China in 2022 were travel (\$13.9 billion), charges for intellectual property (IP) use (\$8.4 billion), and other business services (\$5.6 billion). The leading U.S. services imports from China in 2022 were other business services (\$10.9 billion), transport (\$10.5 billion), and financial services (\$1.7 billion).⁷⁹⁵

⁷⁹⁴ Soybeans refer to products classified under HS subheading 1201.90, crude petroleum under HS subheading 2709.00, processors and controllers under HS subheading 8542.31, smartphones under HS subheading 8517.13, portable computers and tablets under 8471.30, and wheeled toys and other toys under HS subheading 9503.00. USITC DataWeb/Census, total exports and general imports, accessed July 5, 2023.

⁷⁹⁵ USDOC, BEA, International Transactions, International Services, and International Investment Position Tables, table 1.3, U.S. International Transactions, Expanded by Area and Country, March 23, 2023.

Figure 6.7 U.S. merchandise trade with China, annual, 2018–22

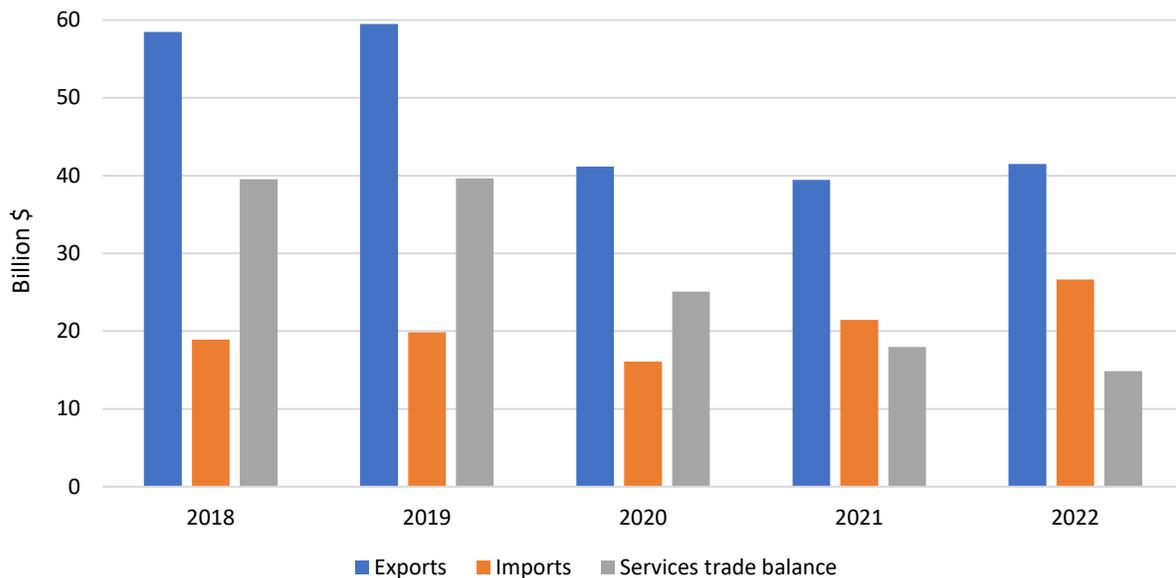
In billions of dollars. Underlying data for this figure can be found in appendix [table A.15](#).



Source: USITC DataWeb/Census, total exports, accessed July 5, 2023.

Figure 6.8 U.S. services trade with China, annual, 2018–22

In billions of dollars. Underlying data for this figure can be found in appendix table A.16.



Source: USDOC, BEA, “International Transactions,” March 23, 2023, Table 1.3 “U.S. International Transactions, Expanded by Area and Country.”
 Notes: Beginning with the *Year in Trade 2020* report U.S. cross-border trade in services information includes data on U.S. exports and imports of government goods and services as well as private services. Previous editions included private services only.

Major Trade Developments in 2022

This section summarizes the major trade events in the U.S.-China trade relations in 2022. In 2022, major U.S.-China trade developments related to the section 301 investigation and the enforcement of the Uyghur Forced Labor Prevention Act, as well as export controls related to advanced computing and semiconductor manufacturing.

Section 301 Investigation

In 2018, USTR conducted a section 301 investigation and determined that China's acts, policies, and practices related to technology transfer, IP, and innovation were unreasonable or discriminatory and burdened or restricted U.S. commerce. Consequently, the United States imposed four rounds of increased tariffs on about two-thirds (about \$550 billion in value) of U.S. imports from China.⁷⁹⁶ The United States and China subsequently signed the U.S.-China Phase One Agreement on January 15, 2020, in which China committed to taking steps to address some of the issues covered in the section 301 investigation as well as to purchase an additional \$200 billion of U.S. goods and services relative to 2017 levels in 2020–21.⁷⁹⁷ For more information on the section 301 investigation, please see chapter 2.

Enforcing the Uyghur Forced Labor Prevention Act

On January 25, 2022, USTR announced that it would develop its “first-ever focused trade strategy to combat forced labor.”⁷⁹⁸ Starting June 21, 2022, U.S. Customs and Border Protection began implementing the provisions in the Uyghur Forced Labor Prevention Act, prohibiting imports made by forced labor in China's Xinjiang region from coming into the United States. Any goods made in whole or in part in China's Xinjiang region are banned. The Uyghur Forced Labor Prevention Act was signed into law on December 23, 2021, underscoring the U.S. commitment to combating forced labor everywhere, including in Xinjiang, where alleged genocide and crimes against humanity are ongoing.⁷⁹⁹

Export Controls Related to Advanced Computing and Semiconductor Manufacturing

On October 7, 2022, the Department of Commerce's Bureau of Industry and Security (BIS) implemented a series of targeted updates to its export controls as part of the bureau's ongoing efforts to protect U.S. national security and foreign policy interests. These updates aim to restrict China's ability to both purchase and manufacture certain high-end chips used in military applications.⁸⁰⁰ The BIS rule on advanced computing and semiconductor manufacturing addresses U.S. national security and foreign policy concerns in two key areas. First, the rule imposes restrictive export controls on certain advanced

⁷⁹⁶ USTR, “China Section 301-Tariff Actions and Exclusion Process,” accessed April 24, 2023.

⁷⁹⁷ USTR, “The Phase One Economic and Trade Agreement,” accessed September 26, 2023.

⁷⁹⁸ USTR, “USTR Announces the Development of Strategy to Combat Forced Labor,” January 25, 2022.

⁷⁹⁹ USDOS, “Implementation of the Uyghur Forced Labor Prevention Act,” June 21, 2022. Uyghur Forced Labor Prevention Act of 2021, Pub. L. No. 117-78, 135 Stat. 1529 (codified at 22 U.S.C. § 6901 note). According to a report released by Tomoya Obokata, the UN special rapporteur on contemporary forms of slavery, coerced labor among Uyghurs, Kazakhs, and other ethnic groups has been taking place in Xinjiang Uighur Autonomous Region of China. UN Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Slavery*, July 19, 2022.

⁸⁰⁰ China Briefing, “US-China Relations in the Biden-Era,” April 21, 2023.

computing semiconductor chips, transactions for supercomputer end uses, and transactions involving certain entities on the Entity List.⁸⁰¹ Second, the rule imposes new controls on certain semiconductor manufacturing items and on transactions for certain integrated circuit (IC) end uses.⁸⁰²

United Kingdom

U.S.-UK Trade Overview

In 2022, the UK was the seventh-largest U.S. merchandise trading partner in terms of total trade. U.S. merchandise exports to the UK grew by 23.6 percent from 2021 to \$76.2 billion in 2022 (figure 6.9). U.S. merchandise imports from the UK grew by 13.7 percent from 2021 to \$64.0 billion in 2022, resulting in a bilateral U.S. merchandise trade surplus of \$12.3 billion (figure 6.9). The top U.S. exports to the UK in 2022 included crude petroleum (\$11.0 billion), aircraft and aircraft engines and parts (\$7.7 billion), and gold (\$7.1 billion).⁸⁰³ The top U.S. imports from the UK in 2022 were certain passenger vehicles (\$3.5 billion), light petroleum oils (\$2.9 billion), and medicaments (\$2.9 billion).⁸⁰⁴

In 2022, the UK was the second-largest U.S. services trading partner. U.S. services exports to the UK grew by 20.1 percent from 2021 to \$82.0 billion in 2022 (figure 6.10). U.S. services imports from the UK grew by 17.5 percent from 2021 to \$73.5 billion in 2022, resulting in a bilateral U.S. services trade surplus of \$8.5 billion (figure 6.10). The top three U.S. services exports to the UK in 2022 were financial services (\$22.2 billion), other business services (\$18.3 billion), and travel services (\$9.5 billion). The leading services imports from the UK in 2022 were other business services (\$18.2 billion), financial services (\$17.4 billion), and transport services (\$8.4 billion).⁸⁰⁵

⁸⁰¹ The entity list is a list of names of certain foreign persons – including businesses, research institutions, government and private organizations, individuals, and other types of legal persons – that are subject to specific license requirements for the export, reexport and/or transfer (in-country) of specified items. USDOC, “CBC FAQs – What is the Entity List?” accessed December 18, 2023.

⁸⁰² USDOC, “Commerce Implements New Export Controls,” October 7, 2022.

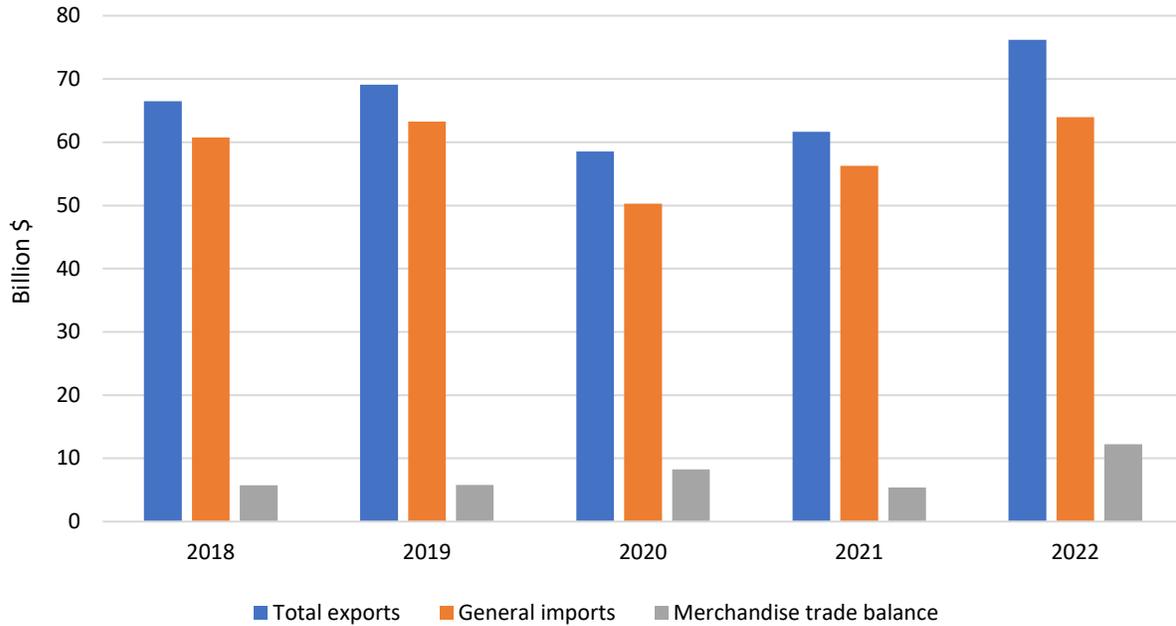
⁸⁰³ Crude petroleum refers to products classified under HS subheading 2709.00, aircraft engines and parts under HS subheading 8800.00, and gold under HS subheading 7108.12.

⁸⁰⁴ Certain passenger vehicles refers to products classified under HS subheading 8703.24, light petroleum oils under HS subheading 2710.12, and medicaments under HS subheading 3004.90. USITC DataWeb/Census, total exports and general imports, accessed July 5, 2023.

⁸⁰⁵ USDOC, BEA, “International Transactions,” Table 1.3, “U.S. International Transactions, Expanded by Area and Country.” June 22, 2023.

Figure 6.9 U.S. merchandise trade with the UK, annual, 2018–22

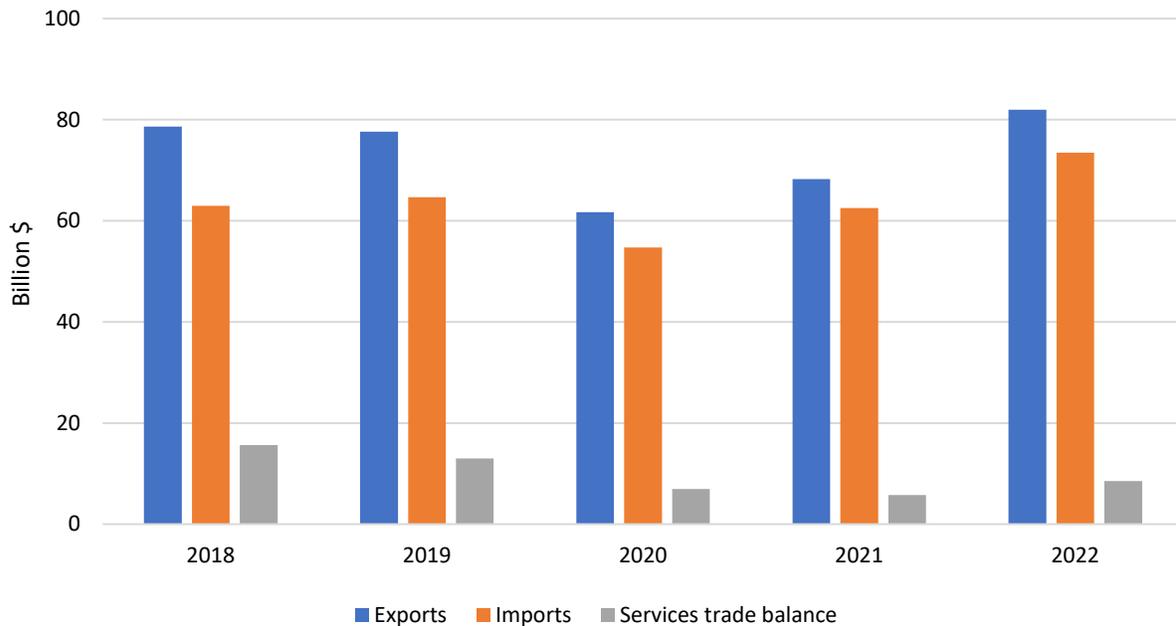
In billions of dollars. Underlying data for this figure can be found in appendix [table A.15](#).



Source: USITC DataWeb/Census, accessed July 5, 2023.

Figure 6.10 U.S. total services trade with the UK, annual, 2018–22

In billions of dollars. Underlying data for this figure can be found in appendix [table A.16](#).



Source: USDOC, BEA, “International Transactions,” Table 1.3, “U.S. International Transactions, Expanded by Area and Country.” June 22, 2023. Notes: Beginning with the *Year in Trade 2020* report, U.S. cross-border trade in services information includes data on U.S. exports and imports of government goods and services as well as private services. Previous editions included private services only.

Major Trade Developments in 2022

This section summarizes major trade events in U.S.-UK trade relations during 2022. The two governments committed to deepening their trade relationship through longstanding dialogues like the U.S.-UK Small and Medium-sized Enterprise (SME) Dialogue and through the creation of new initiatives including the Future of Atlantic Trade Dialogue and the Comprehensive Dialogue on Technology and Data. Other major accomplishments during 2022 included the steel and aluminum agreement reached between the governments and the UK's notification that it had completed internal requirements related to its post-Brexit U.S.-UK tariff-rate quotas (TRQs). The United States, however, remains concerned over the UK's approach to agricultural trade regulations regarding Minimum Residue Limits (MRLs).

On July 18, 2022, the UK government introduced the Data Protection and Digital Information bill in the UK Parliament, aimed at updating and simplifying the UK's data protection framework via changes to existing regulations, such as the Data Protection Act and the UK General Data Protection Regulation. As of December 31, 2022, the bill was still making its way through the UK legislative process.⁸⁰⁶

Throughout 2022, the UK government has sought to work directly with U.S. states to form stronger bilateral trade relationships on an individual level. It signed MOUs with Indiana (May 27, 2022), North Carolina (July 20, 2022), and South Carolina (December 7, 2022).⁸⁰⁷

Trade Dialogues

Throughout 2022, representatives of the United States and the UK met under the auspices of multiple trade-related dialogues. On March 21–22, 2022, and April 25–26, 2022, government counterparts; leaders in business, environment, and labor; and civil society members met under the Future of Atlantic Trade Dialogue.⁸⁰⁸ During the initial session, they held roundtable discussions on the topic of advancing inclusive, resilient, and deeper bilateral trade and investment through the mutual protection of labor and environmental rights; promotion of supply chain resilience and SME exports; and support of the low-carbon transition.⁸⁰⁹ At the April meetings, they built upon these discussions, tackling issues like the digitalization of modern trade; the global impacts of Russia's invasion of Ukraine; and inclusive, innovative growth for workers and businesses.⁸¹⁰

On June 6, 2022, the United States and the UK held the fifth U.S.-UK SME Dialogue in Boston, Massachusetts, focused on opportunities to increase U.S.-UK SME trade, access to capital, cooperation in emerging technologies, and sharing best practices and trade resources for SMEs.⁸¹¹ On November 30,

⁸⁰⁶ USTR, *2023 National Trade Estimate*, March 31, 2023, 437. The Bill was withdrawn on March 8, 2023. The Data Protection and Digital Information Bill (No. 2) Bill was introduced on the same date. Much of the new Bill is the same as the withdrawn one. UK Parliament, House of Commons Library, "The Data Protection and Digital Information Bill 2022-23," March 14, 2023.

⁸⁰⁷ Government of the UK, "UK-Indiana MOU," May 27, 2022; Government of the UK, "UK-North Carolina MOU," July 20, 2022; Government of the UK, "UK-South Carolina MOU," December 7, 2022.

⁸⁰⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 65; USTR, "U.S.-UK to Host Dialogue on the Future of Atlantic Trade in MD," March 16, 2022.

⁸⁰⁹ USTR, "Joint Statement on the U.S./UK Dialogues on the Future of Atlantic Trade," March 22, 2022.

⁸¹⁰ USTR, "Joint Statement on U.S.-UK Dialogue on the Future of Atlantic Trade," April 26, 2022.

⁸¹¹ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 175; USTR, "5th U.S.-UK SME Dialogue," June 22, 2022.

2022, the two governments held the sixth U.S.-UK SME Dialogue in Edinburgh, Scotland, where they discussed obstacles in U.S. and UK markets; opportunities and advances in paperless trade, customs, and trade facilitation; and the economic empowerment of women, minority, and indigenous SME owners, and underserved communities.⁸¹² The representatives committed to updating and enhancing toolkits on navigating transatlantic trade; convening expert-level discussions on digital trade; and holding the seventh U.S.-UK SME Dialogue in 2023.⁸¹³

On October 7, 2022, the two governments launched the U.S.-UK Comprehensive Dialogue on Technology and Data (Dialogue), aimed at developing a bilateral Technology Partnership.⁸¹⁴ With the launch, they recognized progress made to date on bilateral and globally interoperable frameworks for cross-border data flows, semiconductor supply chain collaboration, telecommunications supply chain diversification under the U.S.-UK Telecommunications Supplier Diversity Working Group, artificial intelligence, and quantum information sciences and technology.⁸¹⁵ Looking forward, the two governments also outlined the three main work strands on which the Dialogue will focus in its first year: (1) Data, (2) Critical and Emerging Technologies, and (3) Secure and Resilient Digital Infrastructure.⁸¹⁶ Regarding cross-border data flows, the announcement also touted progress made in discussions within the U.S.-UK dialogue on data flows and the October 2022 release of an Executive Order Enhancing Safeguards for United States Signals Intelligence Activities.⁸¹⁷

Steel and Aluminum Agreement

During the first quarter of 2022, the United States and the UK engaged repeatedly and ultimately agreed on a new tariff arrangement to allow historically based sustainable volumes of UK steel and aluminum products to enter the U.S. market via tariff-rate quotas (TRQs) and without the application of section 232 tariffs.⁸¹⁸ On January 19, 2022, representatives of the U.S. and UK governments announced the launch of bilateral discussions aimed at addressing excess global capacity in steel and aluminum and resolving the U.S. section 232 tariffs on imports from the UK and the UK's retaliatory tariffs on certain imports from the United States.⁸¹⁹

Shortly thereafter, on March 22, 2022, the two governments announced their agreement, which (1) replaced existing bilateral section 232 tariffs with TRQ amounts for annual aggregate imports of various categories of steel and aluminum products from the UK, pursuant to historical import volumes; (2) removed section 232 tariffs on derivative articles of steel and aluminum; (3) established specific melt and cast requirements for steel imports from the UK to be eligible for duty-free treatment under the newly established TRQs; (4) excluded TRQ eligibility for UK imports containing primary aluminum from China, Russia, or Belarus; (5) maintained the existing exclusions process under section 232; (6)

⁸¹² USTR, "6th U.S.-UK SME Dialogue," November 30, 2022.

⁸¹³ USTR, "6th U.S.-UK SME Dialogue," November 30, 2022.

⁸¹⁴ USDOC, "New Comprehensive Dialogue on Technology and Data," October 7, 2022.

⁸¹⁵ USDOC, "New Comprehensive Dialogue on Technology and Data," October 7, 2022; Government of the UK, "UK-U.S. Joint Statement on Cooperation in Quantum Information Sciences and Technology," November 4, 2021.

⁸¹⁶ USDOC, "New Comprehensive Dialogue on Technology and Data," October 7, 2022.

⁸¹⁷ Exec. Order No. 14,086, 87 Fed. Reg. 62283 (October 14, 2022); Government of the UK, "UK-US Joint Statement on Deepening the Data Partnership," December 8, 2021.

⁸¹⁸ Historical volumes in this agreement are based on the 2018–19 period.

⁸¹⁹ USTR, "Joint U.S.-UK Statement on Addressing Global Steel and Aluminum Excess Capacity," January 19, 2022.

established adjustment and review mechanisms for the utilization and administration of the TRQs; (7) suspended UK retaliatory tariffs; (8) stipulated cooperation efforts in the areas of customs, trade remedies, and nonmarket excess capacity and carbon intensity through the sharing of information, concerns, and assistance;⁸²⁰ and (9) required the UK to provide an attestation to the United States for “any UK steel producer that is owned or controlled by a company registered in China or a Chinese entity.”⁸²¹ The agreement went into effect on June 1, 2022, but the UK was given until December 1, 2022, to provide such attestations to the United States. If the UK did not provide attestations for Chinese-owned companies by that date and annually thereafter, the United States retained the ability to deny such companies eligibility for duty-free treatment under the TRQs.⁸²²

Agriculture/Post-Brexit

The United States and the UK made progress in 2022 toward ensuring continued market access for U.S. agricultural goods, notwithstanding U.S. concerns over the UK’s choosing to follow the EU’s hazard-based approach to MRLs.⁸²³ In April 2022, USTR and the U.S. Department of Agriculture began talks with their UK counterparts to elevate cooperation on global and bilateral food security in the face of major disruptions resulting from Russia’s invasion of Ukraine.⁸²⁴

The following month, the UK notified the United States that it had completed all internal requirements needed to bring into effect the TRQs that the two governments negotiated as part of the UK’s withdrawal from the EU.⁸²⁵ The TRQs mainly concern market access for U.S. products, including pork, beef, rice, wheat, corn, and grape juice.⁸²⁶ This notification provided not only enhanced access to the UK’s pork and beef markets but also certainty for U.S. exporters regarding the bilateral agricultural trade relationship.⁸²⁷ During 2022, the UK also notified the WTO of two measures proposing lowering MRLs that are critical for U.S. growers.⁸²⁸ These measures are based on risk assessments that were completed before the UK’s withdrawal from the EU. In November 2022, the UK confirmed that it would continue following the EU’s hazard-based approach to MRLs while it develops its own regulatory processes.⁸²⁹

⁸²⁰ The two governments established a working group on these issues, which met in April and December 2022. Proclamation No. 10405, 87 Fed. Reg. 33583 (May 31, 2022).

⁸²¹ Regarding cooperation on nonmarket excess capacity, for example, either government has the ability to request conference on market-distorting influence or ownership in their respective steel and aluminum industries, and on global steel and aluminum arrangements. USDOC, “Announcement of Actions on UK Imports Under Section 232,” March 22, 2022; USDOC, “Raimondo, Tai Statements on 232 Tariff Agreement with United Kingdom,” March 22, 2022; USDOC, “Steel and Aluminum U.S.-UK Joint Statement,” March 22, 2022.

⁸²² Government of the UK, “UK and US Resolve Steel and Aluminum Tariffs Issue,” March 22, 2022; EY, “USTR 232 Tariff Agreement with UK,” March 25, 2022.

⁸²³ For a description of a hazard-based approach to MRLs, see USITC, *Global Economic Impact of Missing and Low Pesticide MRLs, Vol. 1*, June 2020, 22, 69, 120–31.

⁸²⁴ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 181.

⁸²⁵ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 181.

⁸²⁶ USITC, *The Year in Trade 2021*, August 2022, 200.

⁸²⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 181.

⁸²⁸ USTR, *2023 National Trade Estimate*, March 31, 2023, 425.

⁸²⁹ USTR, *2023 National Trade Estimate*, March 31, 2023, 425.

India

U.S.-India Trade Overview

In 2022, India was the 10th-largest U.S. trading partner by value of merchandise trade. U.S. merchandise exports to India rose by 17.9 percent to \$47.2 billion in 2022 and U.S. merchandise imports from India rose by 16.7 percent to \$85.5 billion in 2022, resulting in a bilateral U.S. merchandise trade deficit of \$38.4 billion (figure 6.11). U.S. top exports to India in 2022 included crude petroleum (\$10.1 billion), nonindustrial diamonds (\$4.9 billion), and bituminous coal (\$3.3 billion).⁸³⁰ The top U.S. imports from India in 2022 were nonindustrial diamonds (\$10.7 billion), medicaments (\$7.1 billion), and light oils (\$3.1 billion).⁸³¹

In 2022, India was the eighth-largest U.S. partner in cross-border services trade, unchanged from 2021. U.S. services exports to India rose by 40.0 percent to \$25.9 billion in 2022 and U.S. services imports from India rose by 14.6 percent to \$33.2 billion in 2022, resulting in a bilateral U.S. services trade deficit of \$7.4 billion (figure 6.12). The top U.S. services exports to India in 2022 were travel (\$12.4 billion), charges for IP use (\$3.3 billion), and other business services (\$2.7 billion). The leading U.S. services imports from India in 2022 were other business services (\$14.3 billion), telecommunications, computer, and information services (\$12.7 billion), charges for IP use (\$2.2 billion), and travel (\$2.2 billion).⁸³²

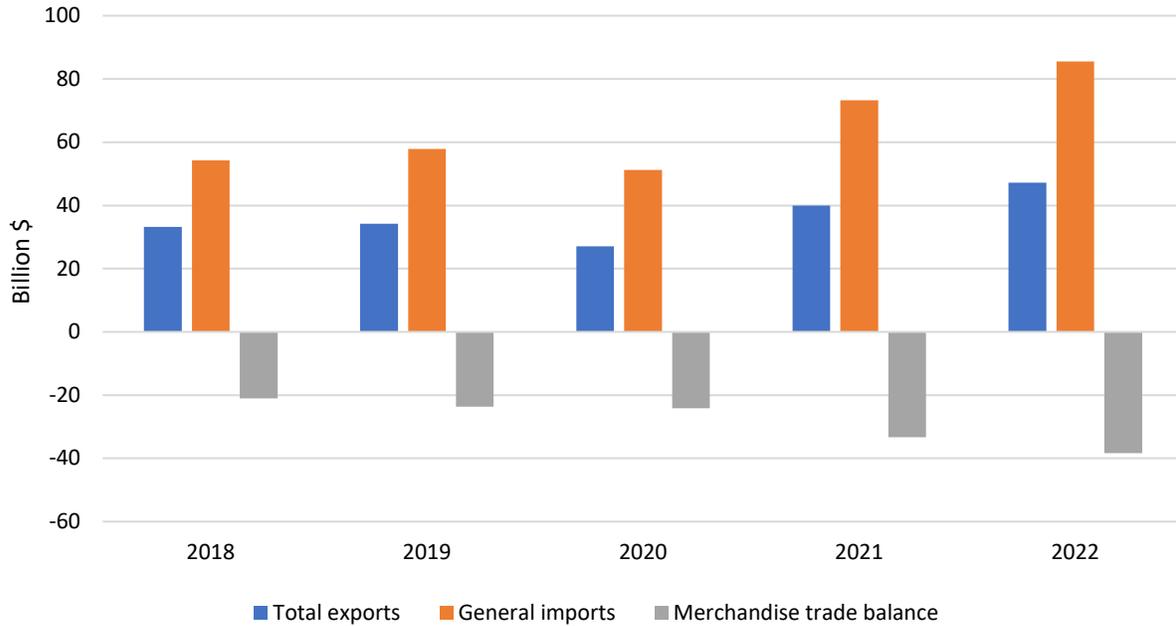
⁸³⁰ USITC DataWeb/Census, accessed July 5, 2023. Crude petroleum refers to products classified under HS subheading 2709.00, non-industrial diamonds to HS subheading 7102.39, and bituminous coal to HS subheading 2701.12.

⁸³¹ USITC DataWeb/Census, accessed July 5, 2023. Non-industrial diamonds refer to products classified under HS subheading 7102.39, medicaments to HS subheading 3004.90, and light oils to HS subheading 2710.12.

⁸³² USDOC, BEA, "International Transactions," Table 1.3, "U.S. International Transactions, Expanded by Area and Country," June 22, 2023.

Figure 6.11 U.S. merchandise trade with India, annual, 2018–22

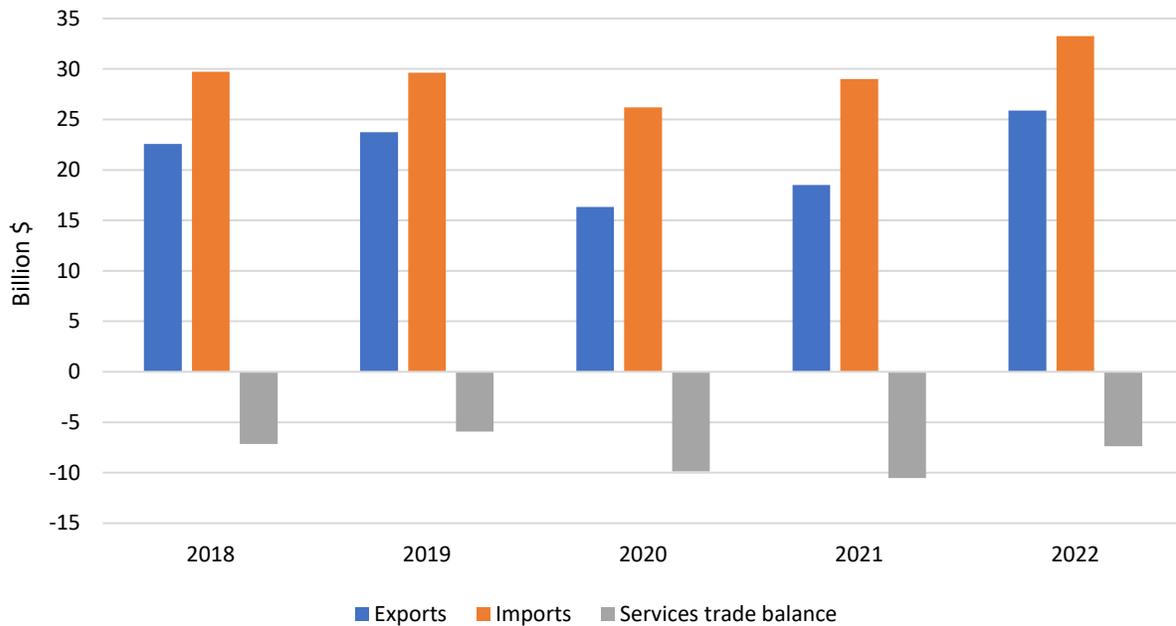
In billions of dollars. Underlying data for this figure can be found in appendix [table A.15](#).



Source: USITC DataWeb/Census, accessed July 5, 2023.

Figure 6.12 U.S. services trade with India, annual, 2018–22

In billions of dollars. Underlying data for this figure can be found in appendix [table A.16](#).



Source: USDOC, BEA, “International Transactions,” Table 1.3, “U.S. International Transactions, Expanded by Area and Country.” June 22, 2023. Notes: Beginning with the *Year in Trade 2020* report, U.S. cross-border trade in services information includes data on U.S. exports and imports of government goods and services as well as private services. Previous editions included private services only.

Major Trade Developments in 2022

This section summarizes major events in U.S.-India trade relations during 2022, primarily through the U.S.-India Trade Policy Forum (TPF)—the principal bilateral mechanism for discussing issues related to trade, investment, labor, and environment.⁸³³ In 2022, among the major developments in U.S.-India bilateral trade relations were the launch and negotiations of the Indo-Pacific Economic Framework for Prosperity (IPEF), which India joined with respect to Pillars II, III, and IV and the improved market access for several agricultural products. They are discussed in detail in the sections below.

Throughout 2022, the United States also continued to engage India in bilateral and multilateral settings regarding its various practices that disadvantaged U.S. exporters, such as its various forms of agricultural subsidies, sanitary and phytosanitary-related trade restrictions, restrictions on foreign participation in services sectors, as well as barriers to digital trade and electronic commerce, etc.⁸³⁴ In 2022, India remained on the priority watch list in USTR’s Special 301 report as “one of the world’s most challenging major economies with respect to protection and enforcement of IP.”⁸³⁵ Patent-related issues, inadequate IP enforcement regarding counterfeiting and piracy, and insufficient legal means to protect trade secrets were among the major challenges that concerned the United States.⁸³⁶

The U.S.-India Trade Policy Forum

The TPF was relaunched in 2021 after a four-year break.⁸³⁷ Throughout 2022, the two countries engaged regularly through the TPF’s four technical working groups on agricultural goods, nonagricultural goods, services and investment, and IP. Other than resolving specific trade concerns, this platform was also used to discuss issues “in the areas of labor, environment, digital trade, trade facilitation, and good regulatory practice,” among others.⁸³⁸ The 13th ministerial-level TPF meeting was originally scheduled for early November 2022. It was postponed, however, to January 11, 2023.⁸³⁹

India and the IPEF

In May 2022, the United States launched the IPEF with 13 original partner countries, including India. Four pillars were chosen for future negotiations under the IPEF: (1) trade, (2) supply chains, (3) clean economy, and (4) fair economy.⁸⁴⁰ On September 9, 2022, USTR and the IPEF partners issued a joint ministerial statement for each pillar. India joined the ministerial statements for pillars two, three and

⁸³³ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 33; USTR, “Joint Statement from the United States-India Trade Policy Forum,” November 23, 2021.

⁸³⁴ USTR, *2022 National Trade Estimate Report*, March 2022, 245–66; USTR, *2023 National Trade Estimate*, March 31, 2023, 197–210.

⁸³⁵ USTR, *2022 Special 301 Report*, April 27, 2022, 54. For more information on special 301 investigations and the priority watch list, see chapter 2.

⁸³⁶ USTR, *2022 Special 301 Report*, April 27, 2022, 54–57.

⁸³⁷ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 33.

⁸³⁸ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 74.

⁸³⁹ Atlantic Council, “Experts Weigh in on 2023 US-India Trade Policy Forum,” January 9, 2023; USTR, “Joint Statement on U.S.-India Trade Policy Forum,” January 11, 2023.

⁸⁴⁰ The IPEF partner countries include Australia, Brunei Darussalam, Fiji, India, Indonesia, Japan, Malaysia, New Zealand, the Philippines, South Korea, Singapore, Thailand, and Vietnam. USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 41. For more information on IPEF, see chapter 4.

four, but opted out of the trade pillar.⁸⁴¹ At the media briefing on the same day, Piyush Goyal, a cabinet minister in the government of India, expressed concerns over “the contours of the framework” under the trade pillar and “particularly any commitments required on environmental, labor, digital trade, and public procurement” that may “juxtapose with any benefits that we [India] will receive as a developing country.” He indicated, however, that India would continue to engage with the trade track in the IPEF.⁸⁴² During the first round of in-person IPEF negotiation in Brisbane, Australia, in December 2022, members of the Indian delegation were reported to be present in the trade negotiating room as observers.⁸⁴³

Improved Agricultural Market Access

In 2022, developments on agricultural market access pursuant to the 12th TPA meeting held in November 2021 were notable. On January 11, 2022, the Indian Ministry of Commerce and Industry and the USDA agreed on a framework that would implement market access reforms for several agricultural products from both countries, including cherries, alfalfa hay, and pork from the United States, as well as mangoes, pomegranates, and pomegranate arils from India.⁸⁴⁴

Under the agreement, India adopted a phytosanitary protocol that will facilitate market access for U.S. exports of cherries to India.⁸⁴⁵ On August 3, 2022, India’s Ministry of Agriculture and Farmers Welfare granted expanded market access for U.S.-origin cherries from the northwest United States.⁸⁴⁶ Industry experts estimated that with the expanded market access to India, U.S. cherry exports may reach \$5 million annually.⁸⁴⁷

The USDA had been negotiating with India on the export protocols and health certificate for U.S. pork for several years. In 2022, India agreed to finalize the export certificate that both sides mutually agreed on and allow the importation of U.S. pork and pork products into India. Industry experts estimated that by removing this longstanding barrier, it may increase U.S. pork exports to India up to \$750,000–\$1 million a year.⁸⁴⁸

Under the framework, India also agreed to eliminate the heat treatment requirement for U.S.-origin genetically modified (GE) alfalfa hay. Instead, India would recognize the current U.S. pest mitigation methods for alfalfa hay. Industry experts estimated this market access would allow U.S. alfalfa hay exports to India to reach \$60 million by 2026.⁸⁴⁹ After the framework was agreed, however, the Ministry of Agriculture and Farmers Welfare informed USDA that imports of GE alfalfa hay would require prior

⁸⁴¹ USTR, “IPEF: Trade Pillar,” September 9, 2022.; USDOC, “Ministerial Statement for Pillar II of the IPEF,” September 9, 2022; USDOC, “Ministerial Statement for Pillar III of the IPEF,” September 9, 2022; USDOC, “Ministerial Statement for Pillar IV of the IPEF,” September 9, 2022.

⁸⁴² USTR, “IPEF: Trade Pillar,” September 9, 2022; Inside U.S. Trade, “India an Observer of IPEF Trade Talks in Brisbane,” December 14, 2022; Government of India, “Media Briefing in Los Angeles,” September 9, 2022.

⁸⁴³ Inside U.S. Trade, “India an Observer of IPEF Trade Talks in Brisbane,” December 14, 2022.

⁸⁴⁴ Government of India, “Indo US Trade- Commerce . . . Improving Agri Market Access,” January 8, 2022. Pomegranate arils are the seed pods inside a pomegranate.

⁸⁴⁵ USDA, FAS, “India Grants Expanded Market Access for US-Origin Cherry Exports,” January 14, 2022.

⁸⁴⁶ USTR, *2023 Trade Policy Agenda and 2022 Annual Report*, March 2023, 179.

⁸⁴⁷ USDA, FAS, “India Grants Expanded Market Access for US-Origin Cherry Exports,” January 14, 2022.

⁸⁴⁸ USDA, FAS, “India: Everything but the Squeal,” January 19, 2022; USTR, “New India Agreement to Allow U.S. Pork Into India,” January 10, 2022.

⁸⁴⁹ USDA, FAS, “India Grants Market Access for U.S. Alfalfa Hay,” January 18, 2022.

approval from India's Genetic Engineering Approval Committee. On August 25, 2022, the committee reviewed the ministry's request and suggested forwarding it to the Food Safety and Standard Authority of India (FSSAI) for necessary action. During its October 2022 discussions with the United States, the FSSAI claimed it has no regulatory oversight on the approval of nonfood GE products such as animal feeds and fodders.⁸⁵⁰ As a result of such regulatory stalemate, the market access for U.S. GE alfalfa hay for animal feed purpose remains uncertain.

The United States had restricted imports of mangoes from India since 2020; USDA inspectors were unable to visit India for inspection of irradiation facilities⁸⁵¹ because of COVID-19 pandemic-related international travel restrictions. Under the agreement, India and the United States would follow a joint protocol on irradiation for India's exports of mangoes and pomegranates to the United States and for India's imports of cherries and alfalfa hay from the United States. According to a revised work plan in January 2022, the United States would transfer preclearance oversight of irradiation treatment to Indian authorities, as the two countries agreed. As part of the agreement, the USDA removed the restriction and approved India to export mangoes and pomegranates to the United States in 2022.⁸⁵²

The United States imposed a ban on importing pomegranate arils from India into the United States in 2018 because of concerns over fruit fly infestation in pomegranate seeds.⁸⁵³ The ban was lifted in 2022, when both countries reached an agreement on the standards. In January 2022, the USDA and the Ministry of Agriculture and Farmers Welfare jointly developed the "Systems Approach Operational Work Plan for the Export of Pomegranate Arils from India to the United States," which both agencies signed by July 2022. This Operational Work Plan provides details about the phytosanitary measures required for the production, packing, safeguarding, treatment, export certification, and shipping that govern the importation of Indian pomegranate arils into the United States.⁸⁵⁴

⁸⁵⁰ USDA, FAS, *Agricultural Biotechnology Annual 2022: India*, November 14, 2022, 7.

⁸⁵¹ Food irradiation is a technology that applies ionizing radiation to food to eliminate or reduce microorganisms and insects. It can serve many purposes, such as preventing foodborne illness, preserving food and extending the shelf life, inhibiting or delaying sprouting and ripening, etc. FDA, "Food Irradiation," February 17, 2022.

⁸⁵² Government of India, "Centre Secures Approval for Export of Indian Mangoes to USA," January 11, 2022.

⁸⁵³ Agro Spectrum India, "India Ships First Trial Consignment of Pomegranate to the US," August 1, 2023; USDA, APHIS, "APHIS Rescinds Federal Order Prohibiting the Importation of Pomegranate Arils," October 4, 2018, DA-2018-36.

⁸⁵⁴ Government of India, "Grant of Market Access for Export of Pomegranate Arils to USA," September 7, 2022.

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