

VII. Trade Policy Development

A. Trade Capacity Building

The United States is a world leader in helping developing countries benefit from trade liberalization and a growing volume of global trade opportunities. President Bush's 2001 International Trade Agenda emphasized the priority to "help developing countries and emerging markets begin the process of integrating themselves into the world trading system." Trade capacity building activities implemented by a broad range of U.S. Government agencies assist developing and transition economies to participate in and benefit from expanding global trade. USTR seeks to bring together other agencies – U.S. Agency for International Development, Department of Labor, Trade and Development Agency, Environmental Protection Agency, Department of Commerce, Department of Agriculture, and Department of Transportation, among others – in our efforts to ensure comprehensive and coordinated trade capacity building assistance. USTR created the Office for Trade Capacity Building in April 2002 to coordinate such efforts associated with trade negotiations, the implementation of trade agreements and improving the capability of countries to better participate in the international trading system.

This section reviews trade capacity building efforts with respect to the FTAA, Central America, and Africa. Capacity building with respect to the WTO is discussed under the activities of the WTO Committee on Trade and Development in Chapter II of this report.

1. FTAA-Hemispheric Cooperation Program

The United States won endorsement at the Quito FTAA Meeting of Trade Ministers on November 1, 2002 for a comprehensive trade capacity building program to help small and developing countries in the Western Hemisphere to fully benefit from the FTAA. Countries seeking trade-related technical assistance will prepare, with the help of USAID and the Inter-American Development Bank (IDB), strategies identifying needs in three areas: participation in negotiations, implementation of FTAA commitments, and economic adjustment relating to the FTAA. Technical assistance could include:

- Training for government officials, such as customs officers, environmental analysts, bank regulators, patent and copyright officials, food safety inspectors, and trade policy analysts;
- Programs that foster trade policy coordination among government agencies and that identify ways to make such trade agencies more effective and transparent;
- Programs to establish or improve statistical and analytical institutions, similar to the U.S. International Trade Commission. Such agencies or institutions would provide impartial and transparent information to governments and civil society on trade policy issues;
- Programs for business development, such as identifying new market opportunities for small and medium size companies; and
- Programs to assist governments with regulatory reform in areas such as revenue systems, environmental protection, or competition policy.

These strategies will also help integrate trade into countries' overall development efforts and into their development programs with the IDB and the World Bank.

Working with other agencies, USTR intends to work actively with the private sector and foundations to bring additional resources and creativity to the Hemispheric Cooperation Program. For example, proposed roundtable sessions will bring together public and private donors to identify the best possible programs, from both private and public sources, to meet the needs identified in each country's trade capacity building strategy.

2. Central America

USTR has been working with Central American countries to develop their own National Trade Capacity Building Strategies. Through these strategies, nations would identify their trade capacity building needs, to which the U.S. Government, international institutions, corporations, and non-governmental organizations are now mobilized to respond. By the launch of the negotiations for an FTA on January 8, 2003, over 50 projects had been identified to assist participating Central American nations, including funds for computers and travel, projects to help increase citizen input into trade negotiations, assistance to strengthen science-based food safety inspection systems, and programs to promote cleaner production methods. The President's 2003 budget request includes \$47 million in U.S. capacity building assistance for the region - a 74 percent increase. USTR has established a trade capacity building group that will meet in parallel with the five negotiating groups to continue this important work throughout 2003. Each country's National Strategy may be found on the USTR website (<http://www.ustr.gov>).

3. Africa

a. African Growth and Opportunity Act (AGOA)

The United States continues to work with sub-Saharan African countries to ensure that governments from the region have the capacity to participate effectively in WTO negotiations and to implement the results. The Administration has developed a comprehensive strategy for delivering WTO-related technical assistance to the region based on needs identified by African governments, and is cooperating with other bilateral and multilateral donors on implementation.

In 2002, USAID inaugurated a new, multi-year trade capacity building initiative entitled Trade for African Development and Enterprise (TRADE). A central element of TRADE is the establishment of Regional Hubs for Global Competitiveness in Botswana, Kenya, and Ghana. Each hub will be staffed with a cadre of technical experts that will provide technical support on WTO issues, AGOA implementation, private sector development, and other trade topics. The Botswana Hub was launched in June 2002; the Kenya Hub began operations in October 2002; and the Ghana Hub is to open in early 2003. USTR and USAID also worked with the WTO on a U.S.-sponsored regional workshop on agriculture and services held in Accra, Ghana in August 2002, which was attended by representatives of 13 West and Central African countries. A similar workshop for Southern and Eastern African countries will be held in Johannesburg, South Africa in February 2003. These efforts build on a solid track record of delivering trade capacity assistance to developing countries in sub-Saharan Africa and beyond. In FY 2002, the United States invested \$105 million to trade capacity building programs in sub-Saharan Africa, a 65 percent increase over FY 2001. From FY 1999 through FY 2002, the United States provided a total of \$345 million in trade capacity building programs in the region.

b. FTA Negotiations

Trade capacity building technical assistance will be a fundamental element of bilateral cooperation in support of an FTA with SACU. Through the U.S. Agency for International Development, the United

States has identified initial funding to help the SACU countries prepare for and participate in the negotiations, implement commitments, and take advantage of trade opportunities. This effort will build on the longstanding U.S. commitment to trade capacity building in southern Africa and across the developing world.

B. Congressional Affairs

In 2002, the Administration worked closely with the 107th Congress to complete action on critical trade legislation.

In May, the Senate considered and passed legislation to provide Trade Promotion Authority, thereby enabling the President to effectively negotiate trade agreements that best serve America's farmers, workers, businesses and consumers. In July, the House and Senate passed the conference report accompanying the Trade Act of 2002 which included Trade Promotion Authority. The legislation was sent to the President and signed into law in August.

The Trade Act of 2002 included other important legislative items in addition to Trade Promotion Authority:

- The Andean Trade Preference Act was expanded and reauthorized through 2008;
- The Africa Growth and Opportunity Act was amended to extend benefits to certain apparel products; and,
- The Generalized System of Preferences was reauthorized through 2006.

USTR consulted closely with Congress as final agreements were reached regarding the US-Chile Free Trade Agreement and the US-Singapore Free Trade Agreement.

USTR consulted closely with Congress on the Administration's intent to initiate negotiations regarding three new Free Trade Agreements: US-Central America Free Trade Agreement, US-Southern Africa Customs Union (SACU) Free Trade Agreement, and US-Australia Free Trade Agreement.

USTR also consulted closely with Congress regarding ongoing negotiations regarding the WTO Doha Agenda and the Free Trade Area of the Americas.

USTR consulted closely with Congress regarding a number of trade-related issues, including Steel 201 investigation, Canadian softwood lumber, Foreign Sales Corporation, conflict diamonds, China WTO accession and compliance with WTO rulings regarding the 1916 Act and Irish Music Licensing.

USTR also developed guidelines to assure the timely exchange of information with the newly created Congressional Oversight Group.

C. Private Sector Advisory System and Intergovernmental Affairs

USTR's Office of Intergovernmental Affairs and Public Liaison (IAPL) administers the federal trade advisory committee system and provides outreach to, and facilitates dialogue with, state and local governments, the business and agricultural communities, labor, environmental, consumer, and other domestic groups on trade policy issues.

First, the advisory committee system, established by the U.S. Congress in 1974, falls under the auspices of IAPL. The advisory committee system was created to ensure that U.S. trade policy and trade negotiating objectives adequately reflect U.S. public and private sector interests. The advisory committee system consists of 33 advisory committees, with a total membership of up to 1,000 advisors. It is managed by IAPL, often in cooperation with other agencies including the Departments of Agriculture, Commerce, Defense, and Labor, and the Environmental Protection Agency.

Second, IAPL also has been designated as the NAFTA and WTO State Coordinator. As such, the office serves as the liaison to all state and local governments on the implementation of the NAFTA and the WTO, and other trade issues of interest.

Finally, IAPL also coordinates USTR's outreach to the public and private sector through notification of USTR Federal Register Notices soliciting written comments from the public, consulting with and briefing interested constituencies, holding public hearings, and meeting frequently with a broad spectrum of groups at their request.

1. The Advisory Committee System

The advisory committees provide information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with the development, implementation, and administration of U.S. trade policy.

The system consists of 33 advisory committees, with a total membership of up to 1,000 advisors. (Currently, there are approximately 700 advisors). Recommendations for candidates for committee membership are collected from a number of sources including Members of Congress, associations and organizations, publications, other federal agencies, and individuals who have demonstrated an interest or expertise in U.S. trade policy. Membership selection is based on qualifications, geography, and the needs of the specific committee. Members pay for their own travel and other related expenses.

The system is arranged in three tiers: the President's Advisory Committee for Trade Policy and Negotiations (ACTPN); six policy advisory committees; and 26 technical, sectoral, and functional advisory committees. Additional information can be found on the USTR website (<http://www.ustr.gov/outreach/advise.shtml>).

Private sector advice is both a critical and integral part of the trade policy process. USTR already maintains an ongoing dialogue with interested private sector parties on trade agenda issues. The advisory committee system is unique, however, since the committees meet on a regular basis, and receive sensitive information about ongoing trade negotiations and other trade policy issues and developments. Committee members are required to have a security clearance.

a. President's Advisory Committee on Trade Policy and Negotiations

The President's Advisory Committee for Trade Policy and Negotiations (ACTPN) consists of no more than 45 members broadly representative of key economic sectors affected by trade. The President appoints ACTPN members for two-year renewable terms. The 1974 Trade Act requires that membership broadly represent key economic sectors affected by trade. The ACTPN is the highest tier committee in the system that examines U.S. trade policy and agreements from the broad context of the overall national interest.

b. Policy Advisory Committees

At the second tier, the members of the six policy advisory committees are appointed by the USTR alone or in conjunction with other Cabinet officers. Those managed solely by USTR are the Intergovernmental Policy Advisory Committee (IGPAC) and the Trade Advisory Committee on Africa (TACA). Those policy advisory committees managed jointly with the Departments of Agriculture, Labor, and the Environmental Protection Agency are, respectively, the Agricultural Policy Advisory Committee (APAC), Labor Policy Advisory Committee (LAC), and Trade and Environment Policy Advisory Committee (TEPAC). Members serve two-year renewable terms or until the committee's charter expires. Each committee provides advice based upon the perspective of its specific area.

c. Sectoral, Functional and Technical Committees

At the third tier, the 26 sectoral, functional, and technical advisory committees are organized in two areas: industry and agriculture. Representatives are appointed jointly by the USTR and the Secretaries of Commerce and Agriculture, respectively. Each sectoral or technical committee represents a specific sector or commodity group (such as textiles, or grains and oilseeds) and provides specific technical advice concerning the effect that trade policy decisions may have on its sector. Presently, there are five agricultural technical committees co-chaired by USTR and Agriculture. There are 17 industry sector committees co-chaired by USTR and Commerce. The four functional advisory committees, co-chaired by USTR and Commerce, provide cross-sectoral advice on customs, standards, intellectual property issues, and electronic commerce.

2. State and Local Government Relations

With the passage of the NAFTA in 1993, and the Uruguay Round Agreements Act in 1994, which implements WTO obligations in the United States, the United States created expanded consultative procedures between federal trade officials and state and local governments. Under both agreements, USTR's Office of IAPL is designated as the "Coordinator for State Matters." IAPL carries out the functions of informing the states on an ongoing basis of trade-related matters that directly relate to or that may have a direct effect on them. IAPL also serves as a liaison point in the Executive Branch for state and local governments and federal agencies to transmit information to interested state and local governments, and relay advice and information from the states on trade-related matters. This is accomplished through a number of mechanisms:

a. State Point of Contact System

For day-to-day communications, USTR created a State Single Point of Contact (SPOC) system. The Governor's office in each State designates a single contact point to disseminate information received from USTR to relevant state and local offices, and assist in relaying specific information and advice from the states to USTR on trade-related matters. The SPOC network ensures that state governments are promptly informed of Administration trade initiatives so their companies and workers may take full advantage of increased foreign market access and reduced trade barriers. It also enables USTR to consult with states and localities directly on trade matters which affect them. SPOCs regularly receive USTR press releases, Federal Register notices, and other pertinent information.

b. Intergovernmental Policy Advisory Committee

For advice from states and localities on trade policy matters, USTR has established an Intergovernmental Policy Advisory Committee on Trade (IGPAC). It is one of the six policy advisory committees discussed above. The IGPAC is comprised entirely of state and local officials. Appointed on a bipartisan basis, the committee makes recommendations to the Trade Representative and the Administration on trade policy matters. IGPAC's membership includes governors, mayors, state legislators, attorneys general, and county officials. The IGPAC also meets at the staff liaisons level, and includes representatives from the National Governors' Association (NGA), National Conference of State Legislatures (NCSL), National Association of Attorneys General (NAAG), Council of State Governments (CSG), National Association of Counties (NACo), and National League of Cities (NLC). In 2002, IGPAC was briefed and consulted on trade priorities of interest to states and localities, including Trade Promotion Authority; government procurement, services, and investment issues in the WTO, FTAA, Chile FTA, and Singapore FTA negotiations.

c. Meetings of State and Local Associations

USTR officials participate frequently in meetings of state and local government associations to apprise them of relevant trade policy issues and solicit their views. Associations include the National Governors' Association (NGA), Western Governors' Association (WGA), National Conference of State Legislatures (NCSL), Council of State Governments (CSG), National Association of Counties (NACo), U.S. Conference of Mayors (USCM), National League of Cities (NLC), and other associations.

d. Consultations Regarding Specific Trade Issues

USTR initiates consultations with particular states and localities on issues arising under the WTO and NAFTA agreements, and frequently responds to requests for information from state and local governments. Topics of interest included the WTO Government Procurement Agreement; WTO services issues; Free Trade Area of the Americas, Chile FTA and Singapore FTA negotiations; NAFTA investment issues, NAFTA transportation issues, and agricultural trade with Canada, Mexico, and others.

3. Public and Private Sector Outreach

It is important to recognize that the advisory committee system is but one of a variety of mechanisms through which the Administration obtains advice from interested groups and organizations on the development of U.S. trade policy. In formulating specific U.S. objectives in major trade negotiations, USTR also routinely solicits written comments from the public via Federal Register notices, consults with and briefs interested constituencies, holds public hearings, and meets with a broad spectrum of private sector and non-governmental groups.

a. 2002 Outreach Efforts

The 2002 trade agenda provided many opportunities for USTR to conduct outreach to, and consultations with, diverse trade policy stakeholders including the advisory committees, state and local governments, private sector and non-governmental groups.

i. Trade Promotion Authority

In 2002, USTR conducted outreach to advisory committees, business and agricultural communities, environmental, consumer, and labor organizations, Hispanic groups, and state and local associations and representatives regarding Trade Promotion Authority. IAPL assisted in the preparation of fact sheets and materials on TPA for broad dissemination to the public, highlighting the economic impact and benefits of TPA and increased trade for individual states and economic sectors.

ii. World Trade Organization

Throughout 2002, IAPL worked on public outreach related to multilateral trade negotiations launched in 2001 at the WTO Ministerial in Doha, Qatar. This included the solicitation of comments from the public on important WTO issues such as services, agriculture, and market access negotiations.

iii. Free Trade Area of the Americas

USTR briefed and facilitated consultations with advisory committees and other stakeholders on the FTAA agenda leading up to the FTAA Ministerial in Quito, and subsequent meetings of the Trade Negotiations Committee. USTR organized public briefings in advance of the Ministerial, and conducted several taped webcasts with daily updates from the negotiating site in Quito. In addition, USTR officials met with representatives of business and civil society groups in Quito, and participated in discussions with them on issues under review at the Ministerial. USTR facilitated the public dissemination of the draft text of the FTAA on its website on the same day the Ministerial concluded, continuing a precedent set by Ministers at the FTAA meeting in Buenos Aires in 2001. USTR also participated in a first-ever civil society forum on the FTAA in Merida, Mexico, took note of recommendations made by the Americas Business Forum in Quito, met with and received recommendations from civil society groups in Quito, issued invitations for public comment from the FTAA civil society committee, and briefed advisors and the public regarding the ongoing negotiations.

iv. China Accession to the WTO

USTR briefed and facilitated consultations with advisory committees and other stakeholders on issues related to China's implementation of its WTO obligations.

v. Bilateral Trade Agreements

USTR briefed and facilitated consultations with advisory committees and other stakeholders on Congressional approval of the U.S.-Jordan FTA, the U.S.-Vietnam bilateral trade agreement, and on the negotiations to conclude free trade agreements with Singapore and Chile. This included daily teleconference briefings on the progress of bilateral negotiations with Chile, issuing public fact sheets on the agreements with Chile and Singapore, and making materials widely available on the USTR website.

vi. Monitoring and Compliance Activities

USTR briefed and facilitated consultations with advisors and other stakeholders on disputes including the European Community beef hormones import restrictions; the case brought by the EU against the U.S. Foreign Sales Corporation; and other items. Other issues of interest to advisors and domestic groups included the protection of U.S. intellectual property rights; agriculture and biotechnology issues.

vii. Sectoral Initiatives

USTR, in coordination with other federal agencies, facilitated briefings and consultations with advisors and other stakeholders on the Bush Administration's Multilateral Steel Initiative.

viii. Public Trade Education

USTR continues its efforts to promote and educate the public on trade issues. USTR has participated in education efforts regarding the range of trade activities and benefits through speeches, publications, and briefings. In 2002, USTR launched a new e-mail service, called Trade Facts, to update interested parties on important U.S. trade initiatives. This service provides USTR press releases, fact sheets and background information to advisors and to the general public. USTR's Internet homepage serves as a vehicle to communicate to the public. USTR continued to use recorded webcasts to update the public from the FTAA Ministerial in Quito, Ecuador, and used teleconference briefings for updates on other negotiations. During 2002, IAPL assisted in efforts to extensively revise the USTR website, including improving the organization of the website and adding buttons and links to make the site more user-friendly. The USTR internet address is <http://www.ustr.gov>.

b. Improving the Advisory Committee System

In 2002, the General Accounting Office completed a review of the trade advisory committee system. The report found that the system makes important contributions to U.S. trade policy formulation, and that advisors had a high level of satisfaction with the system. The report did include a number of recommendations to make this system more effective. In response, USTR convened an inter-agency working group to make a number of improvements to the system, which will be implemented in 2003. These include:

- New procedures and guidelines to ensure that advisory committee input is sought on a continual and timely basis;
- Taking steps to make consultations with advisory committees more meaningful;
- Additional steps to make sure that committee advice is considered and that committees receive substantive feedback on how agencies respond to their advice;
- Specific steps to increase outreach efforts to fill gaps in committee composition and membership;
- Streamlining the appointment and nomination process;
- Providing sufficient technological resources, and using new technologies, to improve outreach to advisors; and
- Launching an assessment to update the committee system to make it more relevant to the current structure of the U.S. economy.

D. Policy Coordination

USTR leads the Executive Branch in the development of policy on trade and trade-related investment. Under the Trade Expansion Act of 1962, the Congress established an interagency trade policy mechanism

to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of three tiers of committees that constitute the principal mechanism for developing and coordinating U.S. Government positions on international trade and trade-related investment issues.

The Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC), administered and chaired by USTR, are the subcabinet interagency trade policy coordination groups that are central to this process. The TPSC is the first line operating group, with representation at the senior civil servant level. Supporting the TPSC are more than 80 subcommittees responsible for specialized areas. The TPSC regularly seeks advice from the public on its policy decisions and negotiations through Federal Register notices and public hearings. In the past year, the TPSC held nine public hearings on the following proposals: U.S.-Singapore Free Trade Agreement (April 1, 2002); Free Trade Area of the Americas (September 9-10, 2002); China's Compliance with WTO Commitments (September 18, 2002); WTO Market Access offers including industrial goods (October 21, 2002), Agriculture (October 24, 2002) and Services (November 6, 2002); U.S.- Central America Free Trade Agreement (November 19, 2002); U.S.-Morocco Free Trade Agreement (November 21, 2002); and a Free Trade Agreement between the United States and the Southern African Customs Union (December 16, 2002). The transcripts of these hearings are available on www.ustr.gov/outreach/transcripts/index.htm

Through the interagency process, USTR assigns responsibility for issue analysis to members of the appropriate TPSC subcommittee or task force. Conclusions and recommendations of this group are then presented to the full TPSC and serve as the basis for reaching interagency consensus. If agreement is not reached in the TPSC, or if particularly significant policy questions are being considered, issues are referred by the TPRG (Deputy USTR/Under Secretary level).

Member agencies of the TPSC and the TPRG consist of the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, and Health and Human Services, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The United States International Trade Commission is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed.

The final tier of the interagency trade policy mechanism is the joint National Security/National Economic Council, composed of members of the Cabinet. The NSC/NEC Deputies Committee considers decision memoranda from the TPRG, usually in preparation for Cabinet-level deliberation.

During the interagency review stage, advice is sought from the private sector advisory committees, the public and from Congress. Also, while virtually all issues are developed and formulated through the interagency process, USTR advice, in some cases, may differ from that of the interagency committees.

Once policy decisions are made, USTR assumes responsibility for directing the implementation of those decisions. Where desirable or appropriate, USTR may delegate the responsibility for implementation to other agencies.