

## IV. Other Multilateral Activities

The United States pursues its trade and trade-related interests in a wide range of other international fora. In addition to opening new trade opportunities, such efforts focus on establishing an infrastructure for international trade that is transparent, predictable and efficient, and prevents corrupt practices and other impediments to expanded trade and sustainable economic growth and prosperity. These efforts also are aimed at ensuring that U.S. strategies and objectives relating to international trade, environment, labor and other trade-related interests are balanced and mutually supportive.

### A. Trade and the Environment

As President Bush stated when he signed the Trade Act of 2002, “history shows that as nations become more prosperous, their citizens will demand, and can afford, a cleaner environment.” The United States, understanding that advancing trade and environmental objectives are mutually supportive, has been very active in promoting a trade policy agenda that pursues economic growth in a manner that integrates economic, social, and environmental policies.

To help maximize the complementary effect of our trade and environmental policies, the Bush Administration announced in April 2001 that it would continue the policy of conducting environmental reviews of trade agreements under Executive Order 13141 (1999) and implementing guidelines. The Order and implementing guidelines require careful assessment and consideration of the environmental impacts of trade agreements, including detailed written reviews of environmentally significant trade agreements. The reviews are the product of rigorous interagency consultations. During 2004, as part

of its ongoing review policy, USTR continued its work on the environmental reviews of FTAs under negotiation with Morocco, Bahrain, five Central American countries and the Dominican Republic, Australia, and the members of the Southern African Customs Union. Interim reviews of the Bahrain and Central American agreements have now been issued. USTR also completed a final review of the FTAs with Australia and Morocco. The review process for each of these agreements made important contributions to the negotiations and to the content of the final agreements. USTR also continued its work on an environmental review of the WTO Doha Development Agenda negotiations and an environmental review of the Free Trade Area of the Americas (FTAA) and commenced reviews for FTAs with the Andean countries, Thailand and Panama.

The United States continues to take an active role in the WTO Committee on Trade and Environment (CTE) to put into effect our commitment to the simultaneous promotion of expanded trade, environmental improvement, and economic growth and development.

The Congress specified certain objectives with respect to trade and environment in the Trade Act of 2002, and USTR took these into account in coordinating interagency development of negotiating positions. Also during 2004, USTR consulted closely with Congress on the environmental provisions of each FTA throughout the negotiations.

In addition, USTR has participated both in multilateral and regional economic fora and in international environmental agreements, in conjunction with other U.S. agencies. USTR also has worked bilaterally with U.S. trading partners to avert or minimize potential trade frictions arising from foreign and U.S. environmental regulations.

## 1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States was active on all aspects of the Doha trade and environment agenda. The United States introduced a paper in the CTE in Special Session, which was well-received, highlighting its experiences related to specific trade obligations (STOs) set out in three Multilateral Environmental Agreements (MEAs): the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); the Stockholm Convention on Persistent Organic Pollutants (POPs); and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC). The United States also identified increased market access for environmental goods and services as an effective means to enhance access to environmental technologies around the world and continued to advance innovative ideas for developing modalities in negotiations on environmental goods. In the Rules Negotiating Group, the United States continued to be a leader in pressing for stronger disciplines on fisheries subsidies, including the prohibition of the most harmful subsidies. With respect to the Doha trade and environment agenda that does not specifically involve negotiations, the United States played an active role, particularly in emphasizing the importance of capacity-building, including with respect to environmental reviews of trade negotiations, and the role of the CTE in Regular Session in discussing the environmental implications of all areas under negotiation in the Doha Development Agenda.

USTR co-chairs United States participation in the OECD Joint Working Party on Trade and Environment (JWPTE), which met twice in 2004. Work has focused on trade, environment and development issues with an emphasis on the role of environmental goods and services liberalization in promoting “win-win-win” scenarios. These activities are discussed further

in the OECD section of this report (Chapter V, Section C).

USTR participates in U.S. policymaking regarding the implementation of various multilateral environmental agreements to ensure that the activities of these organizations are compatible with both U.S. environmental and trade policy objectives. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the United Nations Framework Convention on Climate Change, international fisheries management schemes, the Cartagena Protocol on Biosafety and the Stockholm Convention on Persistent Organic Pollutants. USTR also continues to be involved in the trade-related aspects of international forest policy deliberations, including in the newly formed permanent United Nations’ Forum on Forests – the successor to the Commission on Sustainable Development’s ad hoc Intergovernmental Forum on Forests – and in the International Tropical Timber Organization. In addition, USTR has participated extensively in U.S. policymaking regarding the International Commission for the Conservation of Atlantic Tuna’s revision of its compliance regime.

## 2. The North American Free Trade Agreement (NAFTA)

USTR continues to work actively with the agencies that lead U.S. participation in the institutions created by the NAFTA environmental side agreements, the North American Agreement on Environmental Cooperation (NAAEC) and the border environmental infrastructure agreement. These institutions were designed to enhance the mutually supportive nature of expanded North American trade and environmental improvement. The Border Environment Cooperation Commission and the North

American Development Bank develop and finance needed environmental infrastructure projects along the U.S.-Mexico border.

In August 2004, the CEC Secretariat released an Article 13 report, "Maize and Biodiversity: The Effects of Transgenic Maize in Mexico: Key Findings and Recommendations," that, unfortunately, ignored key science about biotechnology and failed to focus on efforts that will preserve maize genetic diversity. The three NAFTA governments are working with the Secretariat to improve procedures for implementing Article 13.

The CEC is also preparing for its third North American Symposium on Assessing the Environmental Effects of Trade, which will be held in the Fall of 2005. In August 2004, the CEC issued a public call for papers examining trade and environment issues related to investment and growth in North America. The final papers will be presented by the authors at the symposium.

### **3. The Western Hemisphere**

U.S. negotiators continued to identify and pursue relevant trade-related environmental issues within the framework of the FTAA. Complementary environmental elements in the overall Summit of the Americas Plans of Action are intended to further regional cooperation.

The United States also has continued to support efforts by the FTAA Civil Society Committee to expand opportunities for two-way communication with members of civil society throughout the Hemisphere. The Committee carefully considered civil society's submissions on the full range of issues, including environmental concerns.

### **4. Bilateral Activities**

The Bush Administration has advanced the policy of using the deepened economic

relationship that comes from new trade agreements to enhance environmental policy cooperation with our new FTA partners. To compliment negotiation of FTAs, the Department of State leads interagency efforts to negotiate parallel environmental cooperation mechanisms. For example, as a complement to the Morocco FTA negotiations, the United States and Morocco negotiated a Joint Statement on Environmental Cooperation that establishes a Working Group on Environmental Cooperation to set priorities for future environment-related projects. The United States completed a similar arrangement associated with the FTA with Bahrain, and has already begun to implement cooperative activities with both partners. An Environmental Cooperation Agreement (ECA) with the Dominican Republic and Central America will also be linked to the CAFTA-DR. This ECA identifies several areas, such as enactment and enforcement of environmental laws, for priority projects and is innovative in providing mechanisms to establish benchmarks for measuring progress in environmental protection and to monitor achievements in meeting benchmarks.

USTR has included in all of its recent FTAs environment chapters containing core obligations to promote high levels of environmental protection, ensure effective enforcement of environmental laws and restrict FTA partner governments from inappropriately derogating from these laws to encourage increased trade or investment. Additionally, all FTA environment chapters include provisions to advance public participation, remedial action for violations of environmental laws and measures to enhance environmental performance. CAFTA-DR, in particular, includes an innovative public submissions mechanism that allows members of the public to have independent review of their written submissions on enforcement matters and promote action by the Environmental Cooperation Commission under the ECA to build capacity to address enforcement problems. USTR is currently

negotiating FTA environment chapters with the five countries of SACU, the Andeans, Thailand, and Panama.

With respect to implementation of recently concluded FTAs, USTR is working with other agencies to ensure that environmental provisions have an immediate impact in advancing environmental protection. For example, the United States and Chile are working to implement the eight environmental cooperation projects outlined in their FTA. In January 2004, the governments sponsored a workshop on corporate environmental stewardship in Santiago. In September, the U.S. Department of Justice and the Chilean Consejo de Defensa del Estado, in cooperation with the Environmental Law Institute, held a workshop on environmental law enforcement focusing on judicial actions to restore and recover compensation for damage to the environment and natural resources. Both events included opportunities for civil society participation.

## **B. Trade and Labor**

The trade policy agenda of the United States includes a strong commitment to protecting the rights of workers, both in American and in our trading partners, and ensuring that American workers remain the most competitive, best trained workforce in the world. Expanded trade benefits all Americans through lower prices and greater choices in products available to consumers. Many American workers benefit from expanded employment opportunities created by trade liberalization. The Bush Administration has consistently supported workers through both trade negotiations and the use of safeguard trade laws to ensure a level international playing field. A concerted focus on worker training and education policies will continue to ensure that the American workforce can compete with anyone. In pursuing trade liberalization, we rely on the congressional guidance contained in the Bipartisan Trade Promotion Authority Act of 2002 (“TPA”) to

bring the benefits of trade and open markets to America and the rest of the world. During this past year, USTR continued to consult with Congress on the labor provisions of each agreement throughout the negotiations. USTR also continued to work cooperatively with other U.S. agencies in multilateral, regional and bilateral fora to promote respect for core labor standards, including the abolition of the worst forms of child labor, in pursuing labor provisions in numerous trade agreements consistent with the bipartisan guidance contained in the Trade Act of 2002.

### **1. Bipartisan Trade Promotion Authority Act of 2002 (TPA) Guidance on Trade and Labor**

The importance of the linkage between trade and labor is underscored by the fact that the Bipartisan Trade Promotion Authority Act of 2002 (TPA) contains labor-related clauses in three sections of the legislation: overall trade negotiating objectives; principal negotiating objectives; and the promotion of certain priorities to address U.S. competitiveness in the global economy.

The overall labor-related U.S. trade negotiating objectives are threefold. The first objective is to promote respect for worker rights and the rights of children consistent with the core labor standards of the International Labor Organization (ILO). TPA defines core labor standards as: (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health. The second objective is to strive to ensure that parties to trade agreements do not weaken or reduce the protections of domestic labor laws as an encouragement for trade. The third objective is to promote the universal ratification of and full compliance with ILO Convention 182 – which

the United States has ratified – concerning the elimination of the worst forms of child labor. The principal trade negotiating objectives in TPA include, most importantly for labor, the provision that a party to a trade agreement with the United States should not fail to effectively enforce its labor laws in a manner affecting trade. TPA recognizes that the United States and its trading partners retain the sovereign right to establish domestic labor laws, and to exercise discretion with respect to regulatory and compliance matters, and to make resource allocation decisions with respect to labor law enforcement. To strengthen the capacity of our trading partners to promote respect for core labor standards is an additional principal negotiating objective, as is to ensure that labor, health or safety policies and practices of our trading partners do not arbitrarily or unjustifiably discriminate against American exports or serve as disguised trade barriers. A final principal negotiating objective is to seek commitments by parties to trade agreements to vigorously enforce their laws prohibiting the worst forms of child labor.

In addition to seeking greater cooperation between the WTO and the ILO, other labor-related priorities in TPA include the establishment of consultative mechanisms among parties to trade agreements to strengthen their capacity to promote respect for core labor standards and compliance with ILO Convention 182. The Department of Labor is charged with consulting with any country seeking a trade agreement with the United States concerning that country's labor laws, and providing technical assistance if needed. Finally, TPA mandates a series of labor-related reviews and reports to Congress in connection with the negotiation of new trade agreements. These include an employment impact review of future trade agreements, the procedures for which are modeled after the Executive Order establishing environmental impact reviews of trade agreements. A meaningful labor rights report, and a report describing the extent to which there

are laws governing exploitative child labor, are also required for each of the countries with which we are negotiating.

## **2. Multilateral Efforts**

At the WTO Ministerial meetings in Singapore (1996) and Seattle (1999), the United States was among a group of countries supporting the creation of a WTO working party to examine the interrelationships between trade and labor standards. At the 2001 Doha WTO Ministerial, we supported a similar proposal which was put forth by the EU, but a vocal group of developing countries adamantly opposed this proposal. The text of the Doha Ministerial Declaration, adopted by consensus, therefore, includes the following:

“We affirm our declaration made at the Singapore Ministerial Conference regarding internationally recognized core labor standards. We take note of work underway in the International Labor Organization (ILO) on the social dimensions of globalization.”

The 2003 Cancun WTO Ministerial focused solely on the Doha negotiating agenda, and adopted no declaration.

In an effort to address the social dimensions of globalization, the ILO established the “World Commission on the Social Dimension of Globalization.” in February 2002. In February 2004, the Commission issued its report, “A Fair Globalization: Creating Opportunities for All.” The report made three major groups of suggestions on how all countries of the world could take advantage of the benefits of globalization: national measures that countries could implement to build and strengthen democracy and good government; international measures to reform the international economic system; and suggestions concerning specific issues, such as migration, gender and regional integration. Since the report was issued, the ILO has been engaged in a discussion about how it

might implement some of the labor-relevant conclusions. During 2004 USTR met with the Director-General of the ILO to discuss the implications of the work of the World Commission on United States trade policy.

The United States remains the largest donor to the work of the ILO. The United States has been particularly supportive of the ILO initiative--the International Program on the Elimination of Child Labor (IPEC). Recognizing that all child labor will never be eliminated until poverty is eliminated, IPEC/ILO efforts have focused on the means to eliminate the worst forms of child labor, including child prostitution and pornography, forced or bonded child labor, and work in hazardous or unhealthy conditions. ILO/IPEC activities continued in 2004 in many of our trading partners.

### **3. Regional Activities**

The Thirteenth (XIII) Inter-American Conference of Ministers of Labor (IACML), hosted by Brazil in September 2003, continued the implementation of the labor-related mandates of the Third Summit of the Americas that began with the Ottawa IACML meeting in 2001. The Salvador Declaration, endorsed by labor ministers at the XIII IACML, is groundbreaking regarding the need for greater integration of economic and labor policies. The XIV meeting of the IACML will be hosted by Mexico in September 2005.

The Salvador Plan of Action provides for the continued examination of the impacts of trade and integration on labor within IACML Working Group 1, chaired by Argentina and vice-chaired by the United States. A second working group focuses on capacity-building of Labor Ministries, including improving the ability of Ministries to effectively promote the ILO Declaration on Fundamental Principles and Rights at Work. Each of these working groups involve the ILO, the Organization of American States, the Inter-American Development Bank, the UN's Economic Commission for Latin America and the Caribbean, the Business

Technical Advisory Committee on Labor Matters and the Trade Union Technical Advisory Committee in their work.

The North American Agreement on Labor Cooperation (NAALC) Secretariat, along with the IACML and the OAS, sponsored a workshop in 2004 entitled Supporting Economic Growth through Effective Employment Services, to provide a forum for discussion on the fundamentals of employment service systems as a support to economic growth. The workshop marked the first North American contribution to the implementation of the Action Plan of the XIII IACML. Other NAALC activities are described in the NAFTA section of this report.

In their November 2002 Quito Declaration, the hemisphere's Trade Ministers not only renewed the commitment to observe the ILO Declaration, but also noted the IACML Working Group's examination of the question of globalization related to labor and requested that the results of that work be shared with them. In response to this request, the IACML "troika" leadership, the Ministers of Labor from Canada, Brazil and Mexico, attended the FTAA Trade Ministerial in Miami in November 2003 to report on the IACML's work on labor and integration. The Labor Ministers called for the strengthening of social dialogue in the Summit of the Americas process so that economic integration under the Summit process is pursued in a satisfactory manner.

During the January 2004 special Summit held in Monterrey, Mexico, in the Declaration of Nuevo Leon, governments reaffirmed their dedication to observe the ILO Declaration and recognized the importance of achieving poverty reduction and job creation while protecting the rights of workers:

"We are committed to the principles of decent work proclaimed by the International Labour Organization, and we will promote the implementation of the Declaration on the Fundamental Principles and Rights at Work in

the conviction that respect for workers' rights and dignity is an essential element to achieving poverty reduction and sustainable social and economic development for our peoples. Additionally, we agree to take measures to fight the worst forms of child labor. We recognize and support the important work of the Inter-American Conference of Ministers of Labor toward achieving these vital objectives.”

The Fourth Summit of the Americas, to be held in Argentina in 2005, will build upon the theme of job creation to fight poverty and strengthen democratic governance.

Other regional trade and labor activities carried out under NAFTA/NAALC and the OECD are noted in those sections of this report.

#### **4. Bilateral Activities**

##### **i. FTAs**

The Administration continued to negotiate bilateral trade agreements that fully incorporated congressional guidance on trade and labor contained in TPA. During 2004, USTR signed and Congress approved FTAs with Morocco and Australia. The FTA with Australia entered into force on January 1, 2005 and we expect that the FTA with Morocco will enter into force in the spring of 2005. The United States has also negotiated TPA consistent labor chapters in FTA agreements with the Central American countries and the Dominican Republic (CAFTA-DR) and Bahrain which we expect to submit for congressional approval in 2005.

In each of these FTAs the parties reaffirm their obligations as ILO members and commit to strive to ensure that core labor standards, including the ILO Declaration and ILO Convention 182 concerning elimination of the worst forms of child labor, are recognized and protected by domestic labor laws. Each Party is also obligated not to fail to effectively enforce

its labor laws, recognizing the discretion Parties have in matters such as allocation of resources.

Cooperation and consultations are the preferred means to resolve differences over a Party's compliance with obligations under an FTA's labor chapter. If cooperation and consultations fail to resolve such a disagreement, our FTAs permit a Party to ask a dispute settlement panel to determine whether the other Party has violated its obligation not to fail to effectively enforce its labor laws in a manner affecting trade. If a panel determines that the respondent Party has violated this obligation, and if the Parties are unable to agree on an action plan for bringing that Party into compliance, then the panel may establish a monetary assessment to be paid by that Party, based on criteria such as the trade effect and pervasiveness of the violation.

The proceeds of an assessment would go into a fund, established under the Agreement, and expended only upon the direction of a joint commission (consisting of representatives of both Parties to the Agreement). The intention is for the funds to be used to address the underlying labor problem. The assessment must be paid each year until the respondent Party comes into compliance with its obligations.

If a Party fails to pay an assessment within a reasonable period, the other party may take appropriate steps to collect the assessment, including suspending tariff benefits under the FTA sufficient to collect the assessment, bearing in mind the Agreement's objective of eliminating barriers to bilateral trade while seeking to avoid unduly affecting parties or interests not party to the dispute.

On December 17, 2004, the Bureau of International Labor Affairs of the U.S. Department of Labor renamed its National Administrative Office as the Office of Trade Agreement Implementation, and designated it as the Contact Point for Labor Provisions of Trade Agreements.

In approaching labor issues in the context of negotiations with Central America and the Dominican Republic, the United States carried out a three-pronged strategy. The first element is a labor chapter fully consistent with TPA as well as guidance received in consultations with House and Senate Committees. The language in the labor chapter - stronger and more comprehensive than in earlier FTAs such as Chile and Jordan - requires that in each country tribunals for the enforcement of labor laws be fair, equitable, transparent, and that proceedings before such tribunals not entail unwarranted delays. In addition, the Labor Cooperation and Capacity Building Mechanism in the CAFTA-DR provides opportunities for public participation in the development and implementation of labor cooperation activities.

A second, equally important element has been intensive bilateral consultations with each of our negotiating partners focused on assessing – and addressing where necessary – key labor issues in each country. While negotiations were ongoing, the five CAFTA countries and the Dominican Republic asked the ILO to conduct a review of their labor laws relating to fundamental principles and rights at work. The ILO report makes clear that all six countries have laws giving effect to all of the ILO’s fundamental principles and rights at work, but the report also pointed out that enforcement of those laws needs additional attention and resources.

The third element of our strategy is the design and implementation of labor cooperation and capacity building programs to strengthen the capacity of our partners to better protect worker rights once the agreement takes effect. These initiatives include a regional project in Central America that was expanded to include the Dominican Republic. The program is funded through two grants from the U.S. Department of Labor for \$7.75 million to increase workers’ and employers’ knowledge of their national labor laws, strengthen labor inspections systems, and bolster alternative dispute resolution mechanisms. FY2005 appropriations by

Congress provide an additional \$20 million for labor and environmental capacity building activities related to the agreement in the Central American countries and the Dominican Republic. The United States is in the process of identifying activities at this time. Several programs are also being carried out in Morocco aiming to train workers on worker rights issues, enhance the Labor Ministry’s capacity to increase compliance with labor laws, and to help eradicate the worst forms of child labor.

As noted above, in 2005 we intend to seek congressional approval of legislation implementing the Bahrain FTA. This FTA further builds the foundation for the President’s Middle East Peace Initiative, which calls for a free trade area in the Middle East by 2013. The President has also notified Congress of his intent to negotiate FTAs in 2005 with Oman and the United Arab Emirates.

Trade negotiations will continue in 2005 with the South African Customs Union (SACU), Thailand, Panama, and the Andean countries and will follow the same approach to include TPA consistent labor provisions

## **ii. Other Bilateral Agreements and Programs**

Our bilateral textile agreement with Cambodia, which terminated at the end of 2004, had a unique aspect in that import quotas could be increased dependent upon the efforts of the Cambodian government to effectively enforce its labor laws and protect the fundamental rights of Cambodian workers. With funds jointly provided by the U.S. Department of Labor, the Government of Cambodia and the apparel manufacturers association, the ILO monitored working conditions in Cambodian enterprises and reported on the results of that monitoring. Although the quota mechanism under the Agreement is no longer in effect, as that mechanism was linked to rights and obligations under the WTO Agreement on Textiles and Clothing, which expired at the end of 2004, Cambodia has pledged to financially contribute



to sustaining the ILO garment sector monitoring project after the U.S. Department of Labor funding expires at the end of 2005. The ILO has already secured commitments for funding beyond that date, including from the Government of Cambodia, the French Government, and USAID. Other donors such as the World Bank have also expressed an interest in helping fund the proposed three year transition from ILO monitoring to monitoring conducted by a Cambodian institution beginning in 2009 to ensure credible and transparent monitoring in the long run. The United States will continue to monitor how Cambodia follows through on its commitments, including funding for the ILO monitoring project, whether labor policies are applied to other industries, and capacity building of the Ministry of Labor and Vocational Training.

The U. S. bilateral textile agreement with Vietnam, which terminated at the end of 2004, also included a labor provision. Both Parties reaffirmed their commitments as members of the ILO, and also indicated their support for implementation of codes of corporate social responsibility as one way of improving working conditions in the textile sector. The agreement also called for a review of progress on the goal of improving working conditions in the textile sector when the U.S. Department of Labor and the Ministry of Labor, Invalids and Social Affairs of the Socialist Republic of Vietnam meet annually to review the implementation of a Memorandum of Understanding between the two ministries signed in November 2000.

A final aspect of trade and labor bilateral activities relates to the worker rights provisions of U.S. trade preference programs, such as the African Growth and Opportunity Act (AGOA), the Andean Trade Promotion and Drug Eradication Act (ATPDEA), as amended, the Caribbean Basin Trade Preferences Act (CBTPA), and the Generalized System of Preferences (GSP). The 2004 Annual ATPA Review is the second such review to be

conducted pursuant to the ATPA regulations on the eligibility of countries for the benefits of the ATPA. The TPSC continued to review worker rights conditions in Ecuador. Any modifications to the list of beneficiary developing countries or eligible articles resulting from this review of progress will be published in the Federal Register.

During 2004, USTR continued its reviews of a number of petitions requesting that GSP trade benefits be withdrawn from countries for not taking steps to afford internationally recognized worker rights. The GSP review of Guatemala was terminated as a result of the progress Guatemala made during the CAFTA-DR negotiations to address worker rights. The GSP country practice review of Bangladesh, originally accepted in 1999, was also terminated in recognition of the passage of a new law providing for worker representation committees in Bangladesh's export processing zones. As the year ended, a review of Swaziland was still in progress. GSP country practice petitions were filed in 2004 against Costa Rica, El Salvador, Honduras, Guatemala, Panama, Oman, and a petition was filed to remove AGOA and GSP benefits from Uganda. Decisions on whether to accept these cases for review are pending.

### **C. Organization for Economic Cooperation and Development**

Thirty democracies in Europe, North America, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris. In 2001, these countries accounted for 59 percent of world GDP (in purchasing-power-parity terms), 76 percent of world trade, 95 percent of world official development assistance, and 19 percent of the world's population. The OECD is not just a grouping of these economically significant nations, but also a policy forum covering a broad spectrum of economic, social, and scientific areas, from macroeconomic analysis to education to

biotechnology. The OECD helps countries - both OECD members and non-members - reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and efficient use of resources. Each substantive area is covered by a committee of member government officials, supported by Secretariat staff. The emphasis is on discussion and peer review, rather than negotiation, though some OECD instruments are legally binding, such as the Anti-Bribery Convention. OECD decisions require consensus among member governments. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora, such as the WTO.

The OECD conducts wide-ranging outreach activities to non-member countries and to business and civil society, in particular through its series of workshops and "Global Forum" events held around the world each year. Non-members may also participate as observers of committees when members believe that participation will be mutually beneficial. The OECD carries out a number of regional and bilateral cooperation programs. The Russia program, for instance, supports Russia's efforts to establish a market economy and eventually join the OECD.

### **1. Trade Committee Work Program**

In 2004, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on environment, competition, and agriculture, continued to address a number of issues of significance to the multilateral trading system. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and facilitate WTO negotiations, deepening understanding of the rationale for continued progressive trade liberalization in a rules-based environment. The Trade Homepage on the OECD website ([www.oecd.org/trade](http://www.oecd.org/trade)) contains up-to-date

information on published analytical work and other trade-related activities.

Major analytical pieces completed under the Trade Committee during 2004 included studies on "The Global Economic Impact of China's Accession to the WTO" and on "International Licensing and the Strengthening of Intellectual Property Rights in Developing Countries." The OECD published its study, "A New World Map in Textiles and Clothing: Adjusting to Change," examining the implications for developed and developing countries of the elimination at the end of 2004 of quantitative import restrictions in textiles and clothing. Reflecting the needs of WTO negotiators in Geneva, additional work completed in 2004 analyzed the costs of introducing and implementing trade facilitation measures, in order to address developing country concerns in this area; looked at the economic impact of barriers to trade in services; reviewed the use by WTO Members of import prohibitions and quotas; and examined the links between domestic regulatory reform and market openness, demonstrating that trade-related regulatory reform enables countries to take better advantage of trade liberalization and of open global markets. The Trade Committee reviewed an interim report on a major on-going project looking at trade and structural adjustment and discussed aspects of the work with representatives of civil society, including members of the OECD's Business and Industry Advisory Council and Trade Union Advisory Council. Work advanced on studies expected to be helpful in addressing some developing countries' concerns related to trade liberalization: one on the potential impacts of the erosion of trade preferences, a second on the impacts of tariff cuts on developing countries' government revenues.

The Committee also laid the groundwork for a meeting of OECD member country trade ministers in May 2004. Ministers from a number of key non-members also participated. Those discussions made a positive contribution

to the WTO negotiations leading to the August agreement on a framework for the DDA.

In accordance with the OECD's adoption of biennial output-based budgeting, the Trade Committee determined what should be its priority activities during 2005-06. The Committee agreed that analysis and dialogue to support and facilitate the ongoing WTO negotiations should remain a priority, as should work that focuses on the development dimension of trade and the benefits of trade liberalization.

## **2. Competition Policy and Trade**

The Joint Group on Trade and Competition (JG) continued work on issues at the intersection of trade and competition policy, with the aim of providing an improved analytical foundation for the consideration of this topic in the OECD and other fora. The JG has helped to promote mutual understanding and interaction between the trade and antitrust "cultures," as well as better clarity and coherence of approaches toward issues of common interest. The JG met in February and October 2004, and agreed to pursue a study on regional trade agreements with competition provisions. The JG also discussed a series of case studies of developing countries that had faced competition problems that also affected development and export competitiveness. The case studies included the privatization of Mexico's railroads, Telmex and the related U.S. WTO case, ocean shipping in Turkey, telecommunications in Romania, and cement in Zambia. The case studies will be assembled into a booklet for use in a Joint Global Forum on Trade and Competition scheduled for February 2006, to which many non-OECD countries will be invited.

## **3. The OECD Anti-Bribery Convention: Detering Bribery of Foreign Public Officials**

The OECD Convention on Combating Bribery of Foreign Public Officials in International

Business Transactions entered into force in February 1999. The Convention was adopted by the then 29 members of the OECD and five non-members in 1997. The non-members were Argentina, Brazil, Chile, Bulgaria, and Slovakia (now an OECD member). In 2001, non-member Slovenia became a party to the Antibribery Convention, and in 2004, Estonia, also a non-member, acceded to the Convention.

The Convention requires the parties to criminalize the bribery of foreign public officials in executive, legislative, and judicial branches, impose dissuasive penalties on those who offer, promise or pay bribes, and implement adequate accounting procedures to make it harder to hide illegal payments. All 36 parties have adopted legislation to implement the Convention.

Prior to the entry into force of the Convention, the United States was alone in criminalizing the bribery of foreign public officials. As a result, U.S. firms had lost international contracts with an estimated value of billions of dollars every year due to bribery payments to corrupt officials. Such payments also distort investment and procurement decisions in developing countries, undermine the rule of law and create an unpredictable environment for business, consequences that can be particularly damaging in developing countries.

By the end of 2004, all parties except Slovenia, which will be reviewed in January 2005, and Estonia had undergone a review of their respective national legislation implementing the Convention (i.e., Phase 1 review). The parties to the Convention commenced the second phase (i.e., Phase 2) of peer monitoring – the evaluation of enforcement – in November 2001. By end of 2004, a review had been completed for fifteen countries. Information on these reviews is available on the internet at [www.export.gov/tcc](http://www.export.gov/tcc) and [www.oecd.org](http://www.oecd.org). The United States has successfully pressed for an accelerated Phase 2 monitoring schedule and ensured that there are sufficient OECD budget funds to support it. The Working Group on

Bribery will undertake seven more country reviews in 2005 with the goal of completing the first country review cycle in 2007. The United States is working to ensure continuation of a robust peer-review monitoring process beyond 2007. The OECD Antibribery Convention parties will also continue to study whether the coverage of the Convention should be expanded to include several related issues, such as explicitly covering the bribery of foreign political parties and candidates.

#### **4. Dialogue with Non-OECD Members**

The OECD has continued its contacts with non-member countries to encourage the integration into the multilateral trade regime of developing and transition economies, such as the countries of Eastern Europe and Central Asia, leading developing economies in South America and Asia, and sub-Saharan African countries.

In July 2004 OECD members adopted a new, more pro-active strategy for outreach to non-members. The Trade Committee, like all committees, was instructed to decide which non-members could contribute most positively to its work and to consider inviting those economies to be observers, on a longer-term or an ad hoc basis. As a first step, the Trade Committee is undertaking a review of its mandate, which dates back to the Committee's creation some forty years ago, and has extended the observer status of Argentina, Brazil, Chile, Hong Kong, and Singapore through December 2005. These five observers, plus China, Guyana, India, Kenya, Russia, and South Africa, also accepted the OECD's invitation to participate in the trade ministers' meeting at the May 2004 Ministerial Council Meeting. That meeting focused on advancing the WTO DDA.

Russia, Estonia, Latvia, and Lithuania all participated as ad hoc observers in specific meetings of the Trade Committee's Working Party during 2004. Russia's attendance followed upon its participation in a peer review of its trade-related regulatory reform efforts. The Working Party has undertaken 20 such

reviews in the past few years, but this was the first involving a non-member. The Working Party discussed with the Baltic countries a study on the impact of their accession to the EU on their trade in services. Estonia, Latvia, and Lithuania, as well as the countries of South East Europe and Russia, also benefited from OECD work on the impact of barriers in their services regimes, the culmination of a multi-year project on services trade in the transition economies. Within the framework of that project, the OECD, both alone and in conjunction with other international organizations (the WTO, World Bank, and the International Trade Centre), held seminars in all the Southeast European countries in the first half of 2004 aimed at training government officials and the business community in the region to plan more effective national trade policies in the area of services.

The OECD organized several other events in 2004 connected to its ongoing trade policy dialogue with non-member economies. In June, the OECD held a regional workshop in Almaty, Kazakhstan, on the economic and trade implications of WTO accession. While the main audience was officials from Russia, China, Central Asia, and other Asian nations, representatives from business and international organizations also attended the meeting. The main objectives of the meeting were to share experiences with the implementation of multilateral and regional trade disciplines, exchange views on the relevance of different methods for analyzing changes in trade policy, and consider alternative approaches employed by governments to implement WTO commitments and maximize the benefits of integration into the international trading system.

In October, Lesotho hosted an OECD regional workshop on deeper integration of African countries into the global economy. The meeting focused on agriculture, services, and trade facilitation issues, and brought together representatives from African business, research institutions, civil society, and governments, as

well as from OECD member countries and international organizations.

The biggest trade-related outreach event in 2004 was the Global Forum held in Bangkok, Thailand, in November. The OECD organized this event in conjunction with the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), with support from the World Bank and the Government of Thailand. The meeting provided an opportunity for members and non-members to exchange views and share experiences on policies intended to promote competitiveness and facilitate domestic economic adjustment to trade-related changes. Participants focused particularly on the textiles/clothing and motor vehicles sectors. Attendees came from 28 economies, as well as from the European Commission and a dozen international organizations, non-governmental organizations, and private businesses.

## **5. Environment and Trade**

The OECD Joint Working Party on Trade and Environment (JWPTE) met twice in 2004 to continue its analysis of the effects of environmental policies on trade and the effects of trade policies on the environment, as well as its efforts to promote mutually supportive trade and environmental policies. During the year, the JWPTE contributed important work on environmental goods and services to support the DDA. The JWPTE began work on a paper exploring the synergies between liberalization of environmental goods and environmental services, which is expected to be published in early 2005. The JWPTE also continued its examination of complementary measures that can ensure the maximum realization of benefits from the liberalization of environmental goods and services markets. The JWPTE also compiled studies on the environmental effectiveness and economic efficiency of national eco-labeling schemes. The United States provided information on its analysis of the

Energy Star program, and other OECD members provided similar information for the report, which should be published in early 2005. The JWPTE continued work to support the trade and environment-related elements of the September 2002 World Summit for Sustainable Development plan of implementation, focusing on successful transfer of environmentally-sound technologies. The JWPTE agreed to begin new work in 2005 on environmental aspects of regional trade agreements. The JWPTE hosted an outreach event for interested non-governmental organizations in December 2004, continuing its tradition of promoting dialogue with interested stakeholders.

## **6. Export Credits**

The OECD Arrangement on Guidelines for Officially Supported Export Credits (the Arrangement) places limitations on the terms and conditions of government-supported export credit financing so that competition among exporters is based on the price and quality of the goods and services being exported, rather than on the terms of government-supported financing. It also limits the ability of governments to tie their foreign aid to procurement of goods and services from their own countries (tied aid). The Participants to the Arrangement (Participants), a stand-alone policy-level body of the OECD, are responsible for implementing the 26-year-old Arrangement and for negotiating further disciplines to reduce subsidies in official export credit support.

The Administration estimates that the Arrangement saves U.S. taxpayers about \$800 million annually because the Export-Import Bank of the United States (Ex-Im Bank), the U.S. export credit agency, no longer has to offer loans with low interest rates and long repayment terms to compete with such practices by other governments. In addition, the "level playing field" created by the Arrangement's tied aid disciplines has created conditions for U.S. exporters to increase their exports by about \$1

billion a year. These exports could have cost taxpayers about \$300 million, if the United States had to create its own tied aid program.

In 2004, the Participants in the Arrangement agreed to a U.S. proposal to open the bidding process for projects in developing countries that are financed with untied aid credits. Untied aid credits are bilateral aid loans for which proceeds are supposed to be available to finance procurement from all countries. However, the U.S. Government and U.S. exporters have been concerned that this type of aid was used to promote exports from donor countries outside the tied aid rules, rather than provide financing to all exporters for aid projects.

Partly in response to a request from Congress, the Administration has been working to negotiate OECD rules governing these aid loans over the past two years. In November 2004, the Administration successfully concluded path-breaking requirements for participant governments to publicly announce the details of their untied aid projects 30 days before the bidding period begins, as well as report the outcome of each bidding competition. These requirements will help U.S. exporters identify and bid for these foreign contracts and ensure that the bids are administered fairly. The new two-year pilot agreement entered into force on January 1, 2005. The Treasury Department will carefully monitor the implementation of this agreement to insure proper compliance by untied aid donor governments. The values of untied aid credits covered by this agreement have averaged over \$7 billion annually since 1995, and were as high as \$14 billion in 1996.

The OECD tied aid rules continue to reduce tied aid dramatically and redirect it from capital projects, where it has had trade-distorting effects, toward rural and social sector projects. Tied aid levels were nearly \$10 billion in 1991 before the rules were adopted, but were reduced to \$2.6 billion in 2003 (compared to \$2.1 billion in 2002 -- its lowest level on record). Data for the first half of 2004 indicate that tied aid levels

may have increased to approximately \$4 billion for 2004; however, the types of projects being financed remain within the tied aid rules.

The Administration is addressing a number of other issues through the Arrangement Participants including a review of market window institutions. Market windows are quasi-governmental financial institutions that support national exports and yet are unbound by multilateral rules. Despite claims by government operators that market windows provide purely market-based financing, concerns have been raised that these institutions are providing export financing that is beyond what commercial banks or export credit agencies can provide due to a wide range of government subsidies. In response to a congressional request, Treasury submitted a report detailing the Arrangement Participants' work on market windows to Congress in June 2004. Lacking documented evidence of anticompetitive behavior by these institutions, little progress has been made to negotiate rules for market windows. Making market window operations more transparent is clearly necessary. The Administration continues to monitor market window activity, with Ex-Im Bank working to develop comprehensive data on market window financing.

Another important issue being worked on by the Arrangement Participants involves WTO activities related to export credits. After hearing complaints by developing countries that the Arrangement provides an unfair benefit to Arrangement Participants, Participants began a concerted effort to assure that the Arrangement rules equitably address the trade finance needs of both developing countries and Arrangement Participants. The major portion of this work was achieved in a redrafting of the Arrangement to address specific issues and principles identified in the course of WTO dispute settlement proceedings. More specifically, the goal of the redrafting exercise was to improve the consistency of the text with regard to relevant international obligations (i.e., the WTO

Agreement on Subsidies and Countervailing Measures), to enhance the clarity and user-friendliness of the Arrangement (i.e., to draft it for all official export credit providers and not just the OECD countries), and to increase transparency vis-à-vis non-Participants. The new Arrangement text was implemented in January 2004.

The Arrangement Participants will continue to work with non-OECD members to improve and refine the Arrangement rules to ensure a level playing field for all governments providing official export credit support. Participants are currently focused on closing some loopholes to ensure coherence in the rules for all users.

The biggest challenge facing Arrangement Participants is on how to address developing country concerns that the Participants - viewed as rich countries making the rules - are not taking developing country concerns into account when setting the rules for the provision of export credits. For example, the recent Brazil-Canada WTO dispute and counter disputes over export credits for aircraft have highlighted the need for aircraft-manufacturing Arrangement Participants to consult with Brazil, which is not an OECD member, on aircraft trade. This has led to an agreement by Arrangement Participants to launch a formal review of the OECD agreement on aircraft, with Brazil participating as a full partner in the negotiations. The Administration is coordinating closely with U.S. exporters on these negotiations.

## **7. Investment**

International investment issues are studied and discussed in several OECD bodies. These discussions help build international consensus on the importance of investment protection and on the meaning of particular standards of protection; promote voluntary adherence by multinational enterprises to appropriate business practices; and strengthen understanding of the ways in which investment can promote

development. The United States plays a major role in shaping investment-related work within the OECD.

In 2004, the Committee on International Investment and Multinational Enterprises merged with the Capital Movements and Invisible Transactions Committee to form the Investment Committee, which plays the leading role in the analysis of international investment issues within the OECD. The Investment Committee is also responsible for monitoring and implementing the OECD Codes of Liberalization and the OECD Declaration on International Investment and Multinational Enterprises.

The Investment Committee examined several investment issues in 2004. An ad hoc meeting of legal experts considered systemic issues concerning investment dispute resolution – including transparency, enforcement, and the possibility of an international appellate mechanism – and specific substantive provisions of international agreements. These provisions included “most-favored-nation treatment,” “fair and equitable treatment,” and “indirect expropriation.” Synergies between official development assistance and foreign direct investment were also examined, and the 2004 model U.S. bilateral investment treaty was presented to committee members.

In 2004 OECD continued to expand its outreach on investment issues to non-members. Member countries considered the establishment of a more detailed work plan for the Mideast and North Africa Initiative, which was launched in November 2004. The proposed new work plan would cover a three-year period, and include initiatives on governance and investment. Major outreach efforts for China and Russia also continued in 2004. The OECD published a second analysis of challenges facing Russia’s investment regime. It also examined the investment regime in Romania, which is seeking to become an adherent to the Declaration on

International Investment and Multinational Enterprises. The Investment Committee discussed ways to enhance the participation of non-members in its work through observerships, adherence to the Declaration, and *ad hoc* participation.

Finally, the Investment Committee continued to play an active role in promoting corporate social responsibility through its oversight of the voluntary OECD Guidelines for Multinational Enterprises. In June 2004, the Investment Committee hosted the fourth annual meeting of National Contact Points (NCPs), the government agencies designated by each OECD member country to monitor implementation of the guidelines within its territory. The NCP annual meeting provided an opportunity to review the fourth year of implementation activity under the revised guidelines. In addition, the 2004 OECD Roundtable on Corporate Responsibility, held in conjunction with the NCP annual meeting, focused on the environment and the contribution of private enterprises to its protection. The Investment Committee is also examining the role of private firms in countries characterized by weak governance.

## **8. Labor and Trade**

The Trade Union Advisory Committee (TUAC) to the OECD, made up of over 56 national trade union centers from OECD member countries, has played a consultative role to the OECD and its various committees since 1962. In February 2004, the OECD Trade Committee had an informal consultation with TUAC members, discussing the state of the play of the WTO DDA, as well as exchanging views on the topic of structural adjustment and trade liberalization. TUAC submitted a statement to the May 2004 OECD Ministerial Council meeting, providing a number of recommendations for governments to help address the problems raised by globalization. In October 2004, the Trade Committee held its sixth informal consultation with civil society organizations. TUAC was one of the organizations participating in the

consultation, submitting a paper entitled “Trade, Offshoring of Jobs and Structural Adjustment: The Need for a Policy Response,” which advocated a “whole of government” strategy for responding to the employment consequences of offshoring. TUAC’s paper also noted the key role of the ongoing project in the OECD Trade Committee studying Trade and Structural Adjustment, and called for the OECD and the International Labour Organization to step up cooperation on these issues. As previously noted, in November 2004, the OECD convened a Global Forum on Trade in Bangkok, Thailand on this topic, focusing in particular on structural adjustment in the motor vehicle and textile/apparel sectors.

## **9. Regulatory Reform**

Since 1998, the OECD Trade Committee has contributed to OECD work on domestic regulatory governance with country reviews of regulatory reform efforts. The United States has supported this work on the grounds that targeted regulatory reforms, e.g., those aimed at increasing transparency, can benefit domestic and foreign stakeholders alike by improving the quality of regulation and enhancing market openness.

The Trade Committee’s work on regulatory reform has two aspects: country reviews and product standards. In conducting country reviews, the Committee evaluates regulatory reform efforts in light of six principles of market openness: transparency and openness of decision-making; non-discrimination; avoidance of unnecessary trade restrictions; use of internationally harmonized measures where available/appropriate; recognition of the equivalence of other countries’ procedures for conformity assessment where appropriate; and application of competition principles.

The Trade Committee undertook its first review of a non-member – Russia – in 2004. It had previously reviewed twenty OECD Members, including all the G7 countries. The Committee



was also briefed on the monitoring exercise for Mexico and Japan, which is intended to review progress and challenges since the initial reviews of those countries in 1999. The OECD's Trade Directorate contributed to two papers: "Policy Recommendations for Better Regulations," which will be presented to the OECD Council in 2005 as a proposed revision of the Policy Recommendations on Regulatory Reform adopted in 1997, and "Taking Stock of Regulatory Reform: A Multi-disciplinary Synthesis," which serves as background information emerging from the regulatory reform country reviews undertaken to date. The Trade Directorate also prepared and released a study on "Regulatory Reform and Market Openness: Understanding the Links to Enhance Economic Performance," which summarizes what has been learned about trade-relevant "best regulatory practices" since the program began and extends it to some non-OECD countries. Finally, in May, in Chile, the APEC-OECD Cooperative Initiative on Regulatory Reform held its sixth and seventh annual workshops aimed at developing an integrated checklist to help countries assess their progress in implementing the common principles on regulatory reform. The May workshop, held in Chile, focused on "Enhancing Market Openness through Regulatory Reform." The November workshop, held in Thailand, discussed how to put the checklist into practice.

## **10. Services**

Work in the OECD on trade in services has continued to provide analysis and background relevant to WTO negotiations, with emphasis on issues of importance to developing countries in the negotiations.

In 2004, the Secretariat produced papers on: (1) identifying opportunities and gains with respect to service trade liberalization, focusing on developing countries; (2) managing request offer negotiations under the GATS, focusing on the case of legal services (a study done in

cooperation with UNCTAD); and (3) measuring services barriers and their economic impact, focusing on examples of banking and telecommunications services in selected transition economies. Preparations also advanced for the OECD's fifth "services experts" meeting, organized jointly with the World Bank, to be held in Paris in February 2005.

## **11. Steel**

As noted in the "Steel Trade Policy" section of this report, the Administration continued its efforts to eliminate market-distorting steel subsidies, negotiating with the world's major steel-producing countries at the OECD. While significant progress towards a steel subsidies agreement was made, the talks reached an impasse in early 2004 due to the differences that exist among participants in key areas. Those differences include the nature and extent of any exceptions to the overall subsidies prohibition, preferential treatment for developing countries, and whether any excepted subsidies should continue to be countervailable under national trade laws. In June 2004, the OECD High Level Group on Steel reaffirmed its commitment to the ultimate goal of stronger subsidy disciplines in the global steel sector, and decided to shift the focus of the talks to informal bilateral and plurilateral consultations to explore possibilities for bridging differences on the key issues. The High Level Group also agreed to reconvene in 2005 to evaluate prospects for a steel subsidies agreement.

The participants in the OECD discussions noted that while global steel demand and consumption increased significantly in 2003 and 2004, interest in new steelmaking capacity was also increasing due to the current strong market. The Administration joined other OECD steelmaking countries in agreeing that despite the upturn in the steel market the cyclical nature of the steel market, continued subsidies in the steel sector, and a slower rate of growth in China, the

world's largest steel producer and consumer, warrant continued attention by policymakers. To that end, the Administration, along with industry, supported the efforts of the OECD to organize a Global Steel Conference in January 2005 to better understand the changing situation in the steel sector, including the raw materials markets. The conference was well attended by the world's major steel producers and participants agreed that it was a useful exercise. Following the conference, the permanent OECD Steel Committee met for the first time since the beginning of the High Level process and decided on a program of work for 2005-2006. The committee plans to meet again in early November. The ongoing work at the OECD represents the most sustained and comprehensive commitment of any Administration, and any country, to address the root causes of ongoing market distortions in the world steel market.

## **12. Developing Countries**

The OECD Trade Committee gave special focus in 2004 to issues of particular concern to developing countries, mindful that addressing these issues is essential to making progress on DDA. The OECD issued a major publication in 2004 on adjusting to the changes resulting from the expiration at year-end 2004 of the WTO Agreement on Textiles and Clothing. It also issued a paper on "Trade Facilitation Reforms in the Service of Development," illustrating the costs and benefits of trade facilitation measures taken in a number of developing countries, and concluding that holistic customs reforms tend to yield better results than a piece-meal approach. The Trade Committee and its Working Party discussed on-going OECD analytical work on revenue losses associated with the lowering of tariffs, the impact of preference erosion, and non-tariff barriers of particular importance to developing countries. In October 2004, the Trade Committee held a joint session with the OECD Development Assistance Committee (DAC) to review on-going work and discuss how best to enhance coherence between trade

policy and development strategies, including through a possible future high-level meeting of trade officials and development officials.

The Trade Committee built on its previous work with the DAC to make available current OECD work helpful to trade negotiators, particularly to those from developing countries. In 2004, the OECD issued an updated version of the CD-ROM it had distributed free of charge to all WTO Member governments at the WTO Ministerial Conference in Cancun in 2003. This "Tool Kit III" includes the full texts of over 35 OECD analytical papers and publications on trade policy issues, selected on the basis of their relevance to the DDA. It also contains the analytical reports and presentations that were made available to participants in the three OECD Workshops held in Nairobi, Kenya in December 2003, Pucón, Chile in May 2004, and Almaty, Kazakhstan in June 2004. Other efforts to engage developing countries in the work of the OECD by holding outreach events in those regions and by inviting some countries to participate as observers at Trade meetings are described above in the section on Dialogue with Non-OECD Members.

## **D. Semiconductor Agreement**

On June 10, 1999, the United States, Japan, Korea and the European Commission announced a multilateral Joint Statement on Semiconductors designed to ensure fair and open global trade in semiconductors. Chinese Taipei subsequently endorsed the objectives of the Joint Statement and became the Agreement's fifth party. The 1999 Joint Statement reflected over a decade of progress under three previous semiconductor agreements toward opening up the Japanese market to foreign semiconductors, improving cooperation between Japanese users and foreign semiconductor suppliers, and eliminating tariffs in the top five semiconductor producers (the United States, Japan, Korea, the European Union, and Chinese Taipei). The 1999 Joint Statement also broadened discussions

beyond the Japanese market to cover a broad range of issues aimed at promoting the growth of the global semiconductor market through improved mutual understanding between industries and governments and cooperative efforts to respond to challenges facing the semiconductor industry.

In May 2004, industry CEOs representing all five 1999 Joint Statement parties held their fifth World Semiconductor Council (WSC) meeting. The WSC was created under the 1996 Joint Statement to provide a forum for industry representatives to discuss and engage in cooperation concerning global issues such as standardization, environmental concerns, worker health and safety, intellectual property rights, trade and investment liberalization, and worldwide market development. National/regional industry associations may become members of the WSC only if their governments have eliminated semiconductor tariffs or committed to eliminate these tariffs expeditiously. Reflecting China's increasing importance as a producer and consumer of semiconductors, the WSC has invited China to become a party to the 1999 Joint Statement. China is expected to become the second-largest market for semiconductors, behind the United States, by 2010.

The 1999 Joint Statement also calls for the parties to hold a Government/Authorities Meeting on Semiconductors (GAMS) at least once a year to receive and discuss the recommendations of the WSC regarding policies that may affect the future outlook and competitive conditions within the global semiconductor industry. The fifth GAMS was held in September 2004, hosted by the European Commission. At that meeting, the WSC recommended that government authorities pursue the following policies: elimination of the duty on multichip integrated circuits (MCPs); strengthened protection of intellectual property rights; elimination of discrimination against foreign products; promotion of fair and effective

antidumping rules; discouragement of the use of copyright levies on digital equipment; expanded participation in the Information Technology Agreement (ITA); and adoption of product regulations that are based on sound and widely accepted scientific principles and do not impede the effective functioning of the market. In November 2004, GAMS members met again to discuss a proposed agreement to eliminate applied duties on MCPs. The GAMS mechanism was particularly useful in 2004 in building broad support among the major semiconductor producers for the prompt resolution of the WTO case filed by the United States on China's VAT rebate policy for semiconductors.

## **E. Steel Trade Policy**

In 2004, the Administration continued to implement the President's comprehensive strategy to respond to the challenges facing the United States steel industry. The strategy yielded positive results as the steel industry achieved unprecedented restructuring and consolidation and returned to profitability.

The Administration's steel initiative, announced on June 5, 2001, contains three elements. First, the President directed the USTR to request that the USITC initiate an investigation, under Section 201 of the Trade Act of 1974, of serious injury to the steel industry caused by increasing imports of steel products. Following the USITC's finding of serious injury, in March 2002, the President imposed temporary safeguards: tariffs on ten steel product groups and a tariff-rate quota (TRQ) on steel slab. Second, the President directed the USTR, in cooperation with the Secretaries of Commerce and Treasury, to work with our trading partners to eliminate inefficient excess capacity in the steel industry worldwide. Finally, the President directed the USTR, together with the Secretaries of Commerce and Treasury, to initiate negotiations on the rules that will govern steel trade in the future, so as to eliminate the

underlying market-distorting subsidies that led to the oversupply conditions of the global steel industry in 2001.

After 21 months of the steel safeguards, President Bush concluded that the safeguard measures had achieved their purpose, and as a result of changed economic circumstances, maintaining the measures was no longer warranted. In his proclamation terminating the safeguards, the President continued the Administration's steel import monitoring and analysis (SIMA) program, established in 2002 concurrently with the steel safeguards. The SIMA program is not a trade restriction, but facilitates dissemination of information regarding the steel market. It is an easy-to-use, automatic, web-based licensing system for steel imports that provides timely, clear information on the steel market published on the Department of Commerce SIMA website. The program will remain in effect until March 2005 or until a replacement program is established. In August 2004, the Department of Commerce published a Federal Register notice requesting comments on whether the current program should be extended or expanded to include more products or whether it should be allowed to expire. The Administration is considering the more than 70 submissions received before deciding the future of the SIMA.

In the year following termination of the safeguards, U.S. steel market conditions continued to improve. Prices for many steel products were driven to historically high levels by increased demand both in the United States and globally. U.S. steel shipments and imports increased. The pace of restructuring of the U.S. steel industry continued, increasing the ability of U.S. steel producers and workers to compete in the global market. Despite increased costs for energy and raw materials, U.S. steel company profitability and stock prices in the steel sector increased significantly. The impact of higher steel prices upon U.S. steel-using manufacturers, however, became a significant concern.

Aware that foreign government restrictions on the export of raw material inputs to steelmaking may contribute to elevated prices for raw materials and steel in the United States, the Administration pressed foreign governments to eliminate these practices. The Administration pressed Russia and Ukraine, traditionally large exporters of steel scrap, to eliminate export duties each country maintains on this important steel input. In January 2004, Russia removed a customs order prohibiting scrap exports from many Russian ports. Russia's removal of these port restrictions contributed to a record level of scrap exports in 2004. Ukraine's scrap exports also increased significantly in 2004. The Administration is continuing its efforts to obtain removal of these export taxes in our negotiations on each country's accession to the WTO.

The Administration was also concerned about the impact of high prices for Chinese blast furnace coke as a result of China's reduced export quota level for 2004 and high export license fees. The seriousness of this situation increased in early 2004 as it became evident that last year's coke export levels to the United States were not sufficient to meet increased U.S. demand for imported coke in 2004. The Administration raised concerns about the export quotas with Chinese officials, and after a series of contacts, China increased the amount of coke to be exported in 2004. Further, China did not institute formal changes that would have guaranteed the EU a set portion of China's 2004 coke exports, and expanded its enforcement efforts to eliminate the practice of charging high fees for coke export licenses. As a result, export prices of coke from China have declined significantly since their peak in April 2004, and U.S. industry has been able to obtain a substantially larger quantity of China's coke in 2004.

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agreement was made, the talks reached an impasse early in 2004 due to the differences that exist among participants in key areas, particularly the nature of any exceptions to the overall subsidies prohibition, special and differential treatment for developing countries, and whether any excepted subsidies should continue to be countervailable under national trade laws. In June 2004, the OECD High Level Group on Steel reaffirmed their commitment to the ultimate goal of stronger subsidy disciplines in the global steel sector, and decided to shift the focus of the talks to bilateral and plurilateral consultations to explore bridging the differences on the key issues. The High Level Group also agreed to reconvene in 2005 to evaluate prospects for a steel subsidies agreement.

The participants in the OECD discussions noted that while global steel demand and consumption increased significantly in 2003 and 2004, the current strong market was also increasing interest in new steelmaking capacity. The Administration joined other OECD steelmaking countries in agreeing that despite the upturn in the steel market, the cyclical nature of the steel market, continued subsidies in the steel sector, and a slower rate of growth in China, the world's largest steel producer and consumer, warrant continued attention by policymakers. To that end, the Administration worked with industry and the OECD to organize a Global Steel Conference in January 2005 to better understand the changing situation in the steel sector, including the raw materials markets. The ongoing work at the OECD represents the most sustained and comprehensive commitment of any Administration, and any country, to address the root causes of ongoing market distortions in the world steel market.