III. BILATERAL AND REGIONAL NEGOTIATONS

A. Free Trade Agreements

1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. Increased access to Australia's market under the FTA is already boosting trade in both goods and services, which will improve employment opportunities in both countries. In the past year, U.S. exports to Australia have increased by $1.6 billion. U.S. goods imports from Australia totaled 7.5 billion in 2005, a 17.6 percent increase ($1.1 billion) from 2003, and up 136 percent since 1994. Two-way annual goods and services trade is nearly $31 billion, an increase of approximately 50 percent since 1994. Australia purchases more goods from the United States than from any other country. In 2004, the United States enjoyed a bilateral goods and services trade surplus of $9.4 billion.

Manufactured goods currently account for 93 percent of the total value of U.S. goods exports to Australia. When the FTA entered into force, duties on more than 99 percent of tariff lines covering industrial and consumer goods were eliminated. Duties on remaining manufactured goods will be phased out over the next 10 years. The FTA brought immediate benefits to key U.S. manufacturing sectors, including autos and autos parts; chemicals, plastics, and soda ash; construction equipment; electrical equipment and appliances; fabricated metal products; furniture and fixtures; information technology products; medical and scientific equipment; non-electrical machinery; and paper and wood products. The Agreement also mandated elimination of many non-tariff barriers that previously restricted or distorted trade flows.

The FTA achieves a balanced approach for agriculture, providing expanded export opportunities for a range of U.S. agricultural goods, while responding to U.S. import sensitivities. Duties on all U.S. agricultural exports to Australia were eliminated immediately upon entry into force of the Agreement. U.S. duties are maintained on Australian sugar and certain dairy products. In addition, for certain products imported from Australia, including beef, dairy, cotton, peanuts and certain horticultural products, the Agreement includes other mechanisms, such as preferential tariff-rate quotas and safeguards. The Agreement also established a new forum for scientific cooperation between U.S. and Australian authorities, which met for the first time in 2005, to address specific bilateral animal and plant health matters based on science and with a view to facilitating trade.

Under the FTA, services suppliers enjoy the benefits of expanded Australian commitments for access to its market. U.S. financial service suppliers already have a significant presence in the Australian market through subsidiaries, joint ventures and branches, and Australia agreed to provide new rights for life insurance branching. In addition, Australia and the United States agreed to high standards for regulatory transparency, including procedures applying to licensing systems.

The FTA also establishes a secure, predictable legal framework for U.S. investors operating in Australia. All U.S. investment in new businesses is exempted from screening under Australia's Foreign Investment Review Board. Thresholds for acquisitions by U.S. investors in nearly all sectors are raised significantly, from A$50 million to A$800 million (to be adjusted annually), exempting the vast majority of transactions from screening.

Australia also has locked in existing good practice regarding the review of acquisitions in the banking and insurance sectors. Government-to-government dispute settlement procedures are available to resolve investment-related disputes.

The FTA includes other key elements. On electronic commerce, this is the first Agreement to include provisions on facilitating authentication of electronic signatures, encouraging paperless trade and establishing a program for cooperation on other electronic commerce issues. Regarding intellectual property rights, the FTA complements and enhances existing international standards for the protection of intellectual property and the enforcement of intellectual property rights, consistent with U.S. law. In addition, under the FTA's government procurement provisions, U.S. suppliers have been granted non-discriminatory rights to bid on contracts to supply Australian Government entities, including all major procuring entities and administrative and public bodies. The FTA requires that tendering procedures are conducted in a transparent, predictable, and fair manner. The Agreement also proscribes anticompetitive business conduct, sets out basic procedural safeguards and rules against harmful conduct by government-designated monopolies, and establishes special rules covering state enterprises to deter abuse that may harm the interests of U.S. companies or discriminate in the sale of goods and services.

The FTA contains innovative provisions relating to public health and pharmaceuticals, whereby the United States and Australia affirmed their commitment to several basic principles related to their shared objectives of facilitating high quality health care and improvements in public health. The FTA also requires that federal health care programs apply transparent procedures in listing new pharmaceuticals for reimbursement. In addition, the two countries established a Medicines Working Group to promote discussion and understanding of pharmaceutical issues. Australia has begun establishing and maintaining procedures to enhance transparency and accountability in the listing and pricing of pharmaceuticals under its Pharmaceutical Benefits Scheme, and is in the final stages of setting up an independent review process for listing decisions.

2. Morocco

In April 2002, President Bush and King Mohammed VI agreed to pursue a Free Trade Agreement (FTA) between the United States and Morocco and on June 15, 2004, the two countries signed an Agreement. The U.S. Congress subsequently ratified the Agreement and in August 2005 President Bush signed the implementing legislation. The Moroccan Parliament passed the Agreement in early 2005 and the Agreement entered into force on January 1, 2006. The U.S. - Morocco FTA is a comprehensive agreement and is an important part of the Administration's effort to promote more open and prosperous Middle Eastern societies. The FTA will support the significant economic and political reforms underway in Morocco, and create improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers. This FTA is the first to be ratified and entered into force under the President's Middle East Free Trade Area (MEFTA) initiative, and is an important step towards forming the MEFTA by 2013.

3. Chile

The United States-Chile Free Trade Agreement, which took effect January 1, 2004, continues to fuel the growth in bilateral trade between the United States and Chile. In the first nine months of 2005, the United States has already exported more to Chile than it did in all of 2004. From January to September 2005, the U.S. sent $3.89 billion in exports to Chile, while in all of 2004 U.S. exports to Chile totaled $3.61 billion and 2003 exports totaled $2.72 billion. U.S. imports from Chile continue to grow as well. U.S. imports from Chile in the January-September 2005 period totaled $4.70 billion, which neared the $4.73 billion imported from Chile in all of 2004 and clearly surpassed the $3.71 billion imported in 2003.

Especially telling are figures comparing trade in 2005 to trade in 2003, before the FTA took effect. U.S. exports to Chile in the first nine months of 2005 totaled $3.89 billion, nearly double the $1.98 billion exported to Chile in the first nine months of 2003. This growth surpasses the 26 percent increase in U.S. exports to the world and the 40 percent increase in U.S. exports to Central and South America and the Caribbean in the first nine months of 2005 compared to the same time period in 2003. U.S. imports from Chile grew from $2.82 billion in the first nine months of 2003 to $4.70 billion in the first nine months of 2005, an increase of 67 percent.

U.S. construction equipment exports rose 147 percent in the first nine months of 2005 compared to the same time period in 2003, increasing from $167.5 million to $414.3 million. Medical equipment exports grew from $50.3 million to $80.6 million (60 percent increase), agricultural equipment exports grew from $7.5 million to $16.8 million (124 percent increase) and paper exports grew from $34.1 million to $63.2 million (85 percent increase) when comparing the first nine months of 2003 to the first nine months of 2005. A majority of the top categories of goods at the HS four-digit level exported from the United States to Chile also showed impressive increases.

The United States-Chile FTA eliminates tariffs and opens markets, reduces barriers for services, provides cutting-edge protection for intellectual property, ensures regulatory transparency, guarantees non-discrimination in the trade of digital products, commits the Parties to maintain competition laws that prohibit anti-competitive business conduct, and requires effective labor and environmental enforcement.

Deputy U.S. Trade Representative Susan C. Schwab and Director General Carlos Furche held the second meeting of the United States-Chile Free Trade Commission in December 2005. They reviewed various aspects of the implementation of the FTA. The Agreement provides for the creation of a number of specialized committees to resolve problems, exchange information, and promote trade. The Ministers concluded that good progress was being made in establishing those groups and in other technical aspects of implementation. For example, the United States-Chile FTA Sanitary and Phytosanitary Committee is providing a forum to resolve several outstanding issues in order to allow U.S. agricultural exporters to benefit from FTA tariff reductions.

During 2005, the United States and Chile held a series of meetings on implementation of Chile's FTA obligations in the area of intellectual property, specifically data protection. Several reports from the pharmaceutical industry have indicated that safety and efficacy information submitted for the approval of pharmaceutical products may not be adequately protected from unfair competition in Chile. The United States will continue to work with the Chilean government toward full implementation of the FTA.

The FTA establishes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. The first Labor Affairs Council meeting under the FTA was held in Santiago on December 15-16, 2004. Activities that have been conducted since the Agreement went into effect include the exchange of information on U.S. experience with the application of information technology to judicial proceedings, and U.S. methodologies for collecting and using labor data in policy making; and a training seminar for Chilean labor judges in Chile conducted by DOL Administrative Law Judges in the context of the International Seminar on the Modernization of the Labor Justice system held in Santiago in September of 2005.

4. Singapore

The United States-Singapore Free Trade Agreement, the first comprehensive U.S. FTA with an Asian nation, entered into force on January 1, 2004.

Singapore is our 12th largest trading partner, with two-way trade of goods and services exceeding $40 billion in 2005. The provisions of the United States-Singapore FTA build on the WTO and NAFTA and make important advances in many key areas. Most tariffs were eliminated immediately upon entry into force of the Agreement, with the remaining tariffs phased out over a 3-year-to-10-year period. More than 97 percent of U.S.-Singapore trade in goods is now free of duty. The FTA chapters cover trade in goods, rules of origin, customs administration, textiles and apparel, technical barriers to trade, safeguards, services, telecommunications, financial services, temporary entry, competition policy, government procurement, investment, intellectual property, electronic commerce, customs cooperation, transparency, labor and environment, and dispute settlement.

Trade grew during the first two years of the FTA. On an annualized basis, U.S. exports to Singapore grew by more than ten percent, while U.S. imports from Singapore grew by more than four percent. There have been significant increases in U.S. exports of aerospace equipment; agriculture equipment; auto parts; construction equipment; chemicals, including plastics, cosmetics, rubber and pharmaceuticals; metals; medical equipment and travel goods.

Three sectors in particular have had significant increases in exports from the United States over the first two years of the FTA, including an 89 percent increase (valued at $356 million) in exports of aerospace equipment, an 88 percent increase (valued at $150 million) in exports of chemicals, and a 59 percent increase (valued at $330 million) in exports of construction equipment.

The FTA provides strong disciplines in the most competitive U.S. services sectors. U.S. firms now enjoy improved market access, a more transparent regulatory environment and non-discriminatory treatment across a wide range of services, including financial services (banking, insurance, securities and related services), computer and related services, direct selling, telecommunications services, audiovisual services, construction and engineering, tourism, advertising, express delivery, professional services (architects, engineers, accountants, etc.), distribution services (such as wholesaling, retailing and franchising), adult education and training services, environmental services, and energy services.

The FTA has other important features. It provides a secure legal environment for U.S. investors operating in Singapore, explicit guarantees on the treatment of electronic commerce and digital products, enhanced protection for intellectual property, specific commitments regarding the conduct of Singapore's government enterprises, and commitments to strong and transparent disciplines on government procurement procedures. The Agreement also includes strong and transparent rules of origin, firm commitments to combat illegal transshipments of all traded goods and to prevent circumvention for textiles and apparel, and requirements to ensure effective enforcement of domestic labor and environmental laws. An innovative enforcement mechanism includes monetary assessments to enforce commercial, labor, and environmental obligations of the FTA.

Implementation of the provisions of the agreement has proceeded during 2005 largely according to the time frames contemplated in the FTA. Singapore has made changes to a wide variety of laws to implement its commitments and has sought public comment on its draft legislation. U.S. industries were particularly interested in Singapore's intellectual property and competition legislation and provided comments to the Singapore Government on its drafts. Extensive government-to-government discussions were held in 2004 and 2005, culminating in passage of amendments to the Singapore Copyright Act in August 2005.

5. Jordan

The United States and Jordan continued their efforts in 2005 to help their business communities take advantage of the opportunities afforded by the United States-Jordan Free Trade Agreement (FTA), which went into effect in December 2001. While the FTA is a key part of the United States-Jordan economic relationship, it is just one component of an extensive United States-Jordanian collaboration in economic relations. Close economic cooperation between the two countries began in earnest with joint efforts on Jordan's accession to the World Trade Organization (WTO) in 2000. The United States and Jordan continue to work together closely in the WTO, particularly on issues of special concern to developing nations. U.S. efforts to support Jordan's rapid and successful WTO accession were followed on the bilateral front by the conclusion of the United States-Jordan Trade and Investment Framework Agreement and a Bilateral Investment Treaty. Qualifying Industrial Zones (QIZs) are another important example of successful United States-Jordanian efforts to boost Jordan's economic growth and promote peace in the Middle East.

These measures have played a significant role in boosting United States-Jordanian economic ties. In 1998, U.S. imports of goods from Jordan totaled only $16 million. By 2004, U.S. goods imports had increased to $1.1 billion, a total that Jordan appeared likely to pass in 2005. In 2004, U.S. goods exports to Jordan were $552 million, up 12 percent from 2003. As of November 2005 U.S. exports to Jordan totaled $580 million, surpassing the total for the entire previous year.

6. Israel

2005 marked the 20th anniversary of the 1985 U.S.-Israel FTA, the first FTA signed by the United States. The agreement continues to serve as a foundation for the expanding trade and investment relationship between the United States and Israel. Israel is currently the United States' 21st largest goods trading partner with $23.7 billion in total two way goods trade during 2004.

Bilateral trade in goods appeared likely to rise in 2005 with the total in November 2005 amounting to $23.2 billion, a 7 percent increase over the same period in 2004. Trade in services with Israel (exports and imports) totaled $4.1 billion in 2003 (the latest data available). The FTA has helped foster significant investment between the two countries, as well. Total U.S. foreign direct investment (FDI) in Israel was $6.2 billion in 2003 (latest data available), a 10.2 percent increase from 2002, and was concentrated in the manufacturing sector. Israel's FDI in the United States was $3.8 billion in 2003 (latest data available), up 3.6 percent from 2002. Israeli direct investment in the United States is focused in the manufacturing, and banking sectors.

The Joint Committee process established under the FTA remains a key mechanism through which the United States and Israel identify specific measures to strengthen bilateral trade ties. As discussed in Chapter III, section E, the two countries engaged in extensive efforts in 2005 to address issues affecting the access of U.S. firms to the Israeli market in such important areas as intellectual property protection, government procurement and standards.

7. Central America and the Dominican Republic

The United States began free trade negotiations with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) in January 2003 and concluded negotiations with all nations except Costa Rica in December 2003.

The United States concluded negotiations with Costa Rica in January 2004, and later that year, the Central American countries engaged in negotiations with the Dominican Republic to integrate that country into the free trade agreement. On August 5, 2004, the seven countries signed the Dominican Republic – Central America – United States Free Trade Agreement (CAFTA-DR).

To date all countries except Costa Rica have ratified the agreement. The United States is in the process of working with the CAFTA-DR partners on implementation of the Agreement. CAFTA-DR expands economic freedom and opportunity for all people, and supports regional stability, democracy and economic development. El Salvador was the first CAFTA-DR partner to ratify the Agreement, followed by Honduras, Guatemala, the Dominican Republic, and Nicaragua.

The resulting free trade agreement (FTA) with Central America and the Dominican Republic (CAFTA-DR) is the first FTA between the United States and a group of smaller developing economies. The CAFTA-DR is a regional trade agreement among all seven signatories, and will contribute to the transformation of a region that was consumed by internal strife and border disputes just a decade ago. This historic agreement will create new economic opportunities by eliminating tariffs, opening markets, promoting transparency, and establishing state-of-the-art rules for 21st century commerce. It will facilitate trade and investment among the countries and further regional integration. The CAFTA-DR will not ease U.S. immigration laws and regulations.

Central America and the Dominican Republic make up the second largest U.S. export market in Latin America, behind only Mexico. The CAFTA-DR nations covered by this agreement buy more than $15 billion in U.S. exports annually. In 2004, combined total two-way trade between the United States and the countries of Central America and the Dominican Republic was $33.4 billion.

Throughout the negotiations, U.S. officials consulted closely with Congress, industry representatives, and labor and environmental groups to ensure the FTA advanced U.S. interests and reflected the goals contained in the Trade Act of 2002. President Bush notified Congress of his intent to enter into an FTA with Central America on February 20, 2004. On March 25, 2004, President Bush formally notified Congress of his intent to enter into an FTA with the Dominican Republic.

On August 5, 2004, U.S. Trade Representative Robert B. Zoellick signed the CAFTA-DR, which integrated the five Central American countries and the Dominican Republic into a single agreement.

During the summer of 2005, the U.S. Congress passed CAFTA-DR, sending a powerful signal to the region and the world that the United States would continue to lead in opening markets and leveling the playing field worldwide.

Under the CAFTA-DR, more than 80 percent of U.S. consumer and industrial goods will enjoy tariff-free access to Central America and the Dominican Republic immediately upon entry into force, with remaining tariffs phased out over 10 years.

Key U.S. exports, such as yarns and fabrics, information technology products, agricultural and construction equipment, paper products, chemicals, and medical and scientific equipment, will gain immediate duty-free access to Central America and the Dominican Republic.
Virtually all Central American and Dominican nonagricultural goods will receive immediate duty-free access to the U.S. market.

More than half of current U.S. farm exports to Central America and the Dominican Republic will become duty-free immediately, including high quality cuts of beef, cotton, wheat, soybeans, key fruits and vegetables, processed food products, and wine. Tariffs on most U.S. farm products will be phased out within 15 years. U.S. farm products that will benefit from improved market access include pork, beef, poultry, rice, fruits and vegetables, corn, processed products and dairy products.

Under existing tariff preference programs, the United States provides duty-free treatment to over 99 percent of Central American and Dominican Republic agricultural exports into the U.S. market. This access will be maintained under the agreement.

Duty-free access for other products will be phased in over time, with the exception of sugar, where liberalization is handled through a slowly expanding tariff-rate quota. Under the agreement, the Central American countries and the Dominican Republic will accord substantial market access across their entire services regime, subject to very few exceptions, including for telecommunications, express delivery, and computer and related services. The agreement disciplines the use of dealer protection regimes, reducing significant barriers to distribution in the region. It maintains market openness and prohibits cross-subsidies for express delivery services. U.S. financial service suppliers will have non-discriminatory rights to establish subsidiaries, joint ventures or branches for banks and insurance companies. The agreement offers state of the art protections for digital products such as software, music, text and video. Protection for patents and trade secrets meets or exceeds obligations under WTO TRIPS.

The Agreement establishes a secure, predictable legal framework for U.S. investors, sets strong anti-corruption rules in government contracting, and guarantees U.S. firms transparent procurement procedures to sell goods and services to Central American and Dominican government entities.

With respect to labor and the environment, all Parties commit to not fail to effectively enforce their domestic labor and environment laws. An innovative enforcement mechanism provides for monetary assessments to enforce this obligation where a dispute settlement panel finds a Party to be in breach and the Party fails to come into compliance in a reasonable period of time.

Under this mechanism, such assessments would be expended in the territory of the Party in question to help bring it into compliance with its labor or environment obligation. The commission that oversees implementation of the Agreement would decide collectively on the projects on which to spend the proceeds of an eventual assessment.

In addition, the agreement establishes a framework for cooperative environmental projects, and a labor cooperation mechanism, and it promotes internationally recognized labor standards. CAFTA-DR includes unprecedented provisions that improve access to procedures that provide for fair, equitable and transparent proceedings in the administration of labor laws, protecting the rights of workers and employers -- including American investors.

The language in the labor chapter of the CAFTA-DR is stronger and more comprehensive than earlier FTAs negotiated by the United States, such as Jordan and Chile. The CAFTA-DR takes a more pro-active approach than the Chile and Singapore FTAs obligating the Parties to not fail to effectively enforce existing labor laws, working to improve practices affecting key labor rights, and to build local capacity to improve protections for workers.

As part of the capacity-building effort, the U.S. Department of Labor is funding a $7.75 million project to increase public awareness of labor laws, improve inspection systems, and promote the use of alternative dispute resolution mechanisms in the CAFTA-DR countries.

The Administration committed an additional $20 million in FY2005 for labor and environment initiatives in CAFTA-DR countries and also sought $40 million in FY2006 for this purpose. For FY2006 the $40 million was appropriated in the form of $20 million in Economic Support Funds and $20 million in Developmental Assistance (DA).

8. Bahrain

On May 21, 2003, the United States and Bahrain announced their intention to negotiate a Free Trade Agreement (FTA). After four months of negotiations, the completed FTA was signed on September 14, 2004. Bahrain's Parliament passed and the King of Bahrain ratified the Agreement in July 2005. The U.S. Congress enacted legislation approving and implementing the Agreement in December 2005, and the President signed the legislation on January 11, 2006. The Agreement is expected to enter into force in 2006. The United States-Bahrain FTA will generate export opportunities for the United States, creating jobs for U.S. farmers and workers, while supporting Bahrain's economic and political reforms and enhancing commercial relations with an economic leader in the Arabian Gulf. The FTA will also promote the President's policy of advancing economic reforms and liberalization in the Middle East and to establish a Middle East Free Trade Area (MEFTA) by 2013. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

9. Panama

In April 2004, the United States and Panama began negotiating a free trade agreement (FTA).
U.S. and Panamanian negotiators continue to work through issues toward an FTA. Negotiations have proceeded through nine rounds, the most recent of which concluded in January 2006.

Panama is currently the 65^{th} largest US goods trading partner with $2.2 billion in total two-way goods trade during 2004.

The United States had a $1.5 billion trade surplus with Panama in 2005. U.S. goods exports in 2005 were $2.2 billion, up 19.4 percent from the previous year. Corresponding U.S. imports from Panama were $301 million, down 4.8 percent. Panama is currently the 48^{th} largest export market for U.S. goods.

The stock of U.S. foreign direct investment (FDI) in Panama in 2004 was $5.9 billion, up from $5.5 billion in 2003. U.S. FDI in Panama is concentrated largely in the finance and wholesale sectors.

A bilateral FTA with Panama would be a natural extension of an already largely open trade and investment relationship. Panama is unique in Latin America, and is like the United States, in that it is predominantly a services-based economy; with services represent about 80 percent of Panama's GDP.

10. Andean Countries

On November 18, 2003, after consulting with relevant congressional committees and the Congressional Oversight Group, the Office of the United States Trade Representative notified the Congress of the President's intent to initiate free trade agreement negotiations with Colombia, Peru, Ecuador, and Bolivia and identified specific objectives. Negotiations on the United States-Andean Free Trade Agreement were launched on May 18, 2004 in Cartagena, Colombia. Through 2005 there were twelve additional negotiating rounds involving the governments of Colombia, Peru, and Ecuador, with Bolivia observing the negotiations.

The United States and Peru have concluded their work on a bilateral free trade agreement. This comprehensive trade agreement will eliminate tariffs and other barriers to trade in goods and services and will expand trade between the United States and Peru. The conclusion of the negotiations with Peru was announced on December 7, 2005 by U.S. Trade Representative Portman and Alfredo Ferrero Diez Canseco, Peru's Minister of Foreign Trade and Tourism in Washington, DC. The United States will continue to negotiate with Colombia and Ecuador in an effort to broaden the trade agreement.

In 2005, total two way goods trade with Peru was $7.5 billion. U.S. goods exports to Peru in 2005 were $2.3 billion. Top export categories included machinery and electrical machinery, plastics, cereals, and mineral fuel. U.S. exports of agricultural products to Peru totaled $209 million in 2005. Leading categories included wheat, cotton, and coarse grains. The stock of foreign direct investment (FDI) in Peru in 2004 was $3.9 billion. Colombia, Peru and Ecuador collectively represent a market of nearly $10 billion for U.S. exports, and are home to close to $8 billion in U.S. foreign direct investment. Colombia is the largest market for U.S. agricultural exports in South America. Energy supplies from the Andean region help reduce our dependence on Middle East oil.

The Andean region is important to the United States for a variety of reasons. One is simply its size and economic scale. The four countries have a combined population of about 93 million people, which is about a third of that of the United States, and a combined gross domestic product, on a purchasing power parity basis, of about $453 billion.

The United States has a significant stake in the success of the region and stands to gain substantially from a lowering of barriers in the markets of the Andean countries, as there is much unrealized potential for U.S. exports to the region. The Administration is addressing these issues in the FTA negotiation, to the benefit of U.S. companies, workers and farmers. An FTA also holds the potential to help the region meet its own needs, helping solidify stable democracies as allies in facing our many common challenges. Throughout the process, negotiators have consulted closely with Congress, industry representatives, and labor and environmental groups to ensure the FTA advanced U.S. interests and, that in its final provisions, it will reflect the goals contained in the Bipartisan Trade Promotion Authority Act of 2002.

11. United Arab Emirates

After consulting with Congress in September 2004, USTR announced on November 15, 2004 the United States' intent to negotiate a Free Trade Agreement (FTA) with the United Arab Emirates. Negotiations are ongoing and began in March 2005. An FTA with the UAE will build on existing FTAs in the region to promote the President's Middle East Free Trade Area (MEFTA) initiative to advance economic reforms and openness in the Middle East and the Persian Gulf, and to establish a regional free trade area by 2013.

The successful conclusion of a comprehensive FTA will generate export opportunities for U.S. goods and service providers, solidify the UAE's trade and investment liberalization, and strengthen intellectual property rights protections and enforcement.

12. Southern Africa

On November 4, 2002, USTR notified Congress of President Bush's decision to negotiate a free trade agreement (FTA) with the five member countries of the Southern African Customs Union (SACU). These nations—Botswana, Lesotho, Namibia, Swaziland (collectively BLNS), and South Africa—are key beneficiaries of the African Growth and Opportunity Act (AGOA) with U.S. imports valued at $2.6

billion in 2004. They comprise the largest U.S. export market in sub-Saharan Africa, with $3.3 billion in U.S. exports in 2004. The negotiations began in Pretoria, South Africa in June 2003, and six subsequent rounds have been held. The last full negotiating round was held in Atlanta in June 2004 and talks resumed in a "mini-round" held in September 2005. In 2004 and 2005, there were several high-level discussions and meetings on the FTA, including a Ministerial meeting in Walvis Bay, Namibia in December 2004 that was attended by former U.S. Trade Representative Robert B. Zoellick and a "deputies" meeting in Geneva, Switzerland in July 2005. During these discussions and meetings, the United States and the SACU countries have been working together cooperatively to resolve divergent views on critical areas of the negotiations, including the scope and level of ambition of the FTA. This FTA – which would be the first U.S. FTA with any sub-Saharan African country – offers an opportunity to craft a groundbreaking agreement that will serve as a model for similar efforts in the developing world. Trade capacity building efforts are being undertaken to help the SACU countries participate in the negotiations more effectively and will be key in helping them implement their commitments under the agreement and to benefit from free trade.

By building on the success of AGOA, the SACU countries would secure the kind of guaranteed access to the U.S. market that supports long-term investment and economic prosperity. An FTA would also reinforce ongoing regional economic reforms and integration among the SACU countries.

13. Oman

On November 15, 2004, the Administration formally notified Congress of its intent to negotiate a Free Trade Agreement (FTA) with Oman. After seven months of negotiations, the completed FTA was signed on January 19, 2006. The U.S.-Oman FTA will build on existing FTAs to promote the President's initiative to advance economic reforms and openness in the Middle East and the Persian Gulf and to establish a Middle East Free Trade Area (MEFTA) by 2013. The successful conclusion of a comprehensive FTA will generate export opportunities for the United States goods and service providers, solidify Oman's trade and investment liberalization, and strengthen intellectual property rights protection and enforcement. The U.S. Congress and Oman's government are working to approve the agreement in 2006.

14. Thailand

In October 2003, President Bush announced his intent to enter into FTA negotiations with Thailand, reaffirming his commitment under the Enterprise for ASEAN Initiative (EAI) to strengthen trade ties with countries in the ASEAN region that are actively pursuing economic reforms. During two rounds of FTA negotiations between the United States and Thailand in 2004 and four rounds in 2005, good progress was made on the text of all chapters of the FTA, although significant work continues.
An agreement with Thailand, which is currently the United States' 20th largest trading partner, would significantly increase trade in goods and services, create more commercial opportunities for U.S. exporters, particularly agricultural product exporters, and reduce or eliminate barriers in many sectors. In addition, a United States-Thailand FTA would enhance investment flows by ensuring a stable and predictable environment for investors, and improve the protection and enforcement of intellectual property rights. An FTA also would strengthen longstanding economic and security ties between our countries.

B. Regional Initiatives

1. Free Trade Area of the Americas (FTAA)

The United States and Brazil's Co-Chairmanship of the Free Trade Area of the Americas (FTAA) negotiating process entered its third year in 2005. The year culminated in a meeting of the Presidents and Prime Ministers of the Hemisphere at the Fourth Summit of the Americas in Mar del Plata, Argentina, on November 4-5, 2005. At the Summit, the vast majority of leaders in the hemisphere, including President Bush, called for a continuation of the FTAA negotiations. As the negotiations were suspended during much of 2004, all timelines for the FTAA, including the projected date of January 2005 for conclusion of the negotiations, were suspended as well. While recognizing the difficulties encountered in the FTAA process over the last two years, the leaders remain committed to a balanced and comprehensive FTAA Agreement and called for trade officials to resume their meetings in 2006 to examine and overcome the difficulties in the FTAA process and advance the FTAA negotiations. Some other leaders indicated that the conditions were not yet in place for achievement of the FTAA.

All 34 leaders agreed to explore these two positions in light of the outcome of the December 2005 World Trade Organization (WTO) ministerial meeting. To that end, Colombia offered to undertake consultations to facilitate a meeting of trade officials. In addition, President Bush met with Brazilian President Lula da Silva in Brazil, and they issued a joint statement on November 6, 2005, in which they noted, as Co-Chairs of the FTAA process, the importance of continuing efforts to promote trade liberalization, reaffirmed their commitment to the FTAA process, and welcomed a hemispheric meeting for the timely resumption of the FTAA negotiations.

The United States and Brazil met three times during 2005 to discuss how to move forward in the FTAA negotiations. The first meeting was held in February 2005 between the Co-Chairs of the Trade Negotiations Committee (TNC) and was aimed at restarting the FTAA negotiations on the basis of the framework for the negotiations that had been agreed at a November 2003 Trade Ministerial meeting. The second meeting was held in May 2005 between U.S. Trade Representative Rob Portman and Brazilian Foreign Minister Celso Amorim. In their introductory discussion, Ambassador Portman emphasized the importance of achieving a balanced and sufficiently robust core set of rights and obligations to ensure the FTAA achieves its economic growth and integration objectives, a viewpoint shared with many other countries participating in the FTAA negotiations. The third meeting held between Presidents Bush and Lula on November 6, 2005 resulted in a recommitment to the FTAA process.

The United States also participated in an informal meeting in August 2005 hosted by the Government of Mexico for the 34 countries participating in the FTAA negotiations. The meeting was aimed at assessing the need for ongoing financial commitment by the Inter-American Development Bank (IDB) and Mexico to the FTAA Administrative Secretariat in light of the current state of the FTAA negotiations. At the Mar del Plata Summit, twenty-nine of the Leaders instructed that the financing of the FTAA Secretariat continue so that it can continue to support the FTAA process, which will entail consultations during 2006.

At the Mar del Plata Summit, twenty-nine leaders agreed to "continue to promote the established practices and activities in the FTAA process that provide transparency and encourage participation of civil society." During 2005, the mechanism created by the FTAA Committee of Government Representatives on the Participation of Civil Society (SOC) continued to forward contributions from civil society to the relevant FTAA entities and disseminate them to the public on the official FTAA website (www.ftaa-alca.org).

Activities under the Hemispheric Cooperation Program (HCP), which is designed to assist countries in participating in the negotiations, preparing to implement the FTAA obligations, and adjusting to hemispheric integration, did not take place pending resumption of the technical FTAA negotiations.

2. Enterprise for ASEAN Initiative

President Bush announced in October 2002 a major new initiative, the Enterprise for ASEAN Initiative (EAI). The EAI is intended to strengthen U.S. trade and investment ties with ASEAN both as a region and bilaterally. With over $136 billion in two-way goods trade in 2004, the 10-member ASEAN group already is the United States' fifth largest trading partner collectively. The EAI will further enhance our already close relationship with this strategic and commercially important region.

With continued economic growth in the ASEAN countries and a regional population of around 500 million, the United States anticipates significant opportunities for U.S. companies, particularly agricultural exporters. For ASEAN, this initiative will help boost trade and redirect investment back to the ASEAN region.

Under the EAI, the United States offers the prospect of bilateral free trade agreements (FTAs) with ASEAN countries that are committed to the economic reforms and openness inherent in an FTA with the United States. Any potential FTA partner must be a WTO member and have a trade and investment framework agreement (TIFA) with the United States. Since the launch of the EAI, the United States concluded an FTA with Singapore in 2003 and began FTA negotiations with Thailand in 2004. The United States also has TIFAs in effect with Malaysia, Indonesia, the Philippines, Thailand, and Brunei Darussalam, and continued negotiations in 2005 on a TIFA with Cambodia. The Administration sees progress in addressing bilateral issues under these TIFAs as important to laying the groundwork for entering into FTA negotiations with the confidence that such negotiations can be concluded successfully. In carrying out the EAI, the key U.S. objective is to create a network of bilateral FTAs with ASEAN countries.

U.S. and ASEAN officials met in August 2003 and 2004, as well as in March and August 2005, to discuss progress under the EAI. In November 2005, under the auspices of the ASEAN-U.S. Enhanced Partnership, the United States and ASEAN countries took the EAI to the next level by agreeing to work together to conclude a region-wide U.S. - ASEAN TIFA. Under such a TIFA, the United States would work with ASEAN on areas of mutual interest, such as intellectual property rights, customs and trade facilitation, biotechnology, sanitary and phytosanitary (SPS) issues, small and medium enterprises, and information and communications technology.

Under the EAI, the United States also actively supports the efforts of ASEAN members that do not yet belong to the WTO to complete their accessions successfully and take other key steps to open their economies. With the support of the United States, Cambodia became a WTO Member in September 2003. In 2005, we continued work with Vietnam on its accession to the WTO.
We also maintained support for Laos' efforts to accede to the WTO. In addition, the United States began providing normal trade relations (NTR) tariff treatment to products of Laos in 2005.

3. North American Free Trade Agreement

Overview

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada and

Mexico (NAFTA) entered into force. NAFTA created the world's largest free trade area, which now links 435 million people producing $13.8 trillion worth of goods and services. The dismantling of trade barriers and the opening of markets has led to economic growth and rising prosperity in all three countries. The closer economic relationship promoted by NAFTA also includes labor and environmental cooperation agreements, which are among the most significant that the United States has negotiated as part of a trade agreement. The NAFTA has dramatically improved our trade and economic relations with our neighbors. The net result of these efforts is more economic opportunity and growth, greater fairness in our trade relations, and a coordinated effort to better protect worker rights and the environment in North America.

Trade between the United States and its NAFTA partners has soared since the Agreement entered into force. U.S. two-way trade with Canada and Mexico exceeds U.S. trade with the European Union and Japan combined.

U.S. goods exports to NAFTA partners more than doubled between 1993 and 2004, from $142 billion to $299 billion, significantly higher than export growth of 60 percent for the rest of the world over the same period.

By dismantling barriers, NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness.

From 1994 to 2004, cumulative Foreign Direct Investment in the NAFTA countries has increased by over $1.8 trillion. Increased investment has brought more and better-paying jobs, as well as lower costs and more choices for consumers and producers.

Elements of NAFTA

A. Rules of Origin

In 2005, following approval by the NAFTA Free Trade Commission (the central oversight body for the Agreement), the Parties implemented changes to the NAFTA rules covering approximately $20 billion in trilateral trade. These changes included the first ever set of changes to the short supply provisions of the NAFTA. The Free Trade Commission asked that their officials continue considering new requests for changes to the rules of origin from consumers and producers; and to examine the rules of origin in the free trade agreements that each country has negotiated subsequent to the NAFTA, to determine whether those rules should be applied to the NAFTA. In December 2005, the NAFTA Working Group on Rules of Origin agreed on a second and third set of changes to the rules of origin, which they aim to implement in 2006. Together, these changes will cover approximately $50 billion in total trilateral trade. This work demonstrates that NAFTA continues to provide benefits to businesses, consumers, workers, and farmers.

B. Textiles and Apparel

In 2004, the Free Trade Commission addressed the impending liberalization of international textile and apparel trade at the end of 2004 and asked officials to continue to consider actions to enhance competitiveness. Officials from the NAFTA Parties produced a report on the prospects and opportunities for the North American textile and apparel industries, which is available on the USTR website.

This report outlines the policy tools that the Parties have at their disposal to address the new challenges, and presents a set of recommendations for work in this area.

C. NAFTA and Labor

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. Each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point for information, to examine labor concerns, and to coordinate cooperative work programs. In addition, the Agreement created a tri-national Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat.

The NAALC also provides for the review of public submissions related to labor laws in the NAFTA Parties. During 2005, five public submissions were presented, three to the U.S. NAO concerning Mexico, one to the Mexican NAO concerning the United States, and one to the Canadian NAO concerning Mexico. At the end of 2005, determinations as to whether to accept and review the submissions were pending in all cases. In August 2004, the U.S. NAO issued a public report on submission 2003-01 concerning labor law enforcement in the state of Puebla, Mexico, recommending ministerial consultations between the United States and Mexico, which were formally requested by the Secretary of Labor in October 2004. Mexico agreed to consultations in November 2004. A submission on the same issues also was filed with the Government of Canada. After Canada's acceptance and review of the submission, all three labor ministers agreed to proceed with trilateral ministerial consultations, resolution of which remained pending at the end of 2005.

In April 2004, the United States, Mexico, and Canada formally launched a web site as part of the Trinational Occupational Safety and Health Working Group. The Web site (www.naalcosh.org), which can be navigated in English, Spanish or French, contains links to each government's occupational safety and health programs and practices; promotes education and public involvement; and facilitates the dissemination of information about the occupational safety and health activities of the three governments. Trinational cooperation on occupational safety and health continued in 2005.

As part of their ongoing program of trilateral cooperation under the NAALC, the United States, Mexico, and Canada presented a conference on the Labor Dimensions of Corporate Social Responsibility in North America, hosted by the Canadian NAO in Ottawa, Canada. The goals of the conference were to promote awareness of the benefits and challenges of CSR initiatives in North America, examine private sector examples of best practices in CSR, and explore the potential roles of governments in supporting CSR initiatives. Additionally, in November 2005, the United States and Mexico sponsored a joint regional seminar in Atlanta, Georgia to familiarize Mexican Consulate officials with U.S. labor laws and regulations related to migrant workers and to continue to encourage collaboration between the two countries on Mexican migrant workers in the United States.

D. NAFTA and the Environment

A further supplemental accord, the North American Agreement on Environmental Cooperation (NAAEC), ensures that trade liberalization and efforts to protect the environment are mutually supportive. The NAAEC created the Commission for Environmental Cooperation (CEC), which is comprised of: (a) the Council, made up of the Environmental Ministers from the United States, Canada, and Mexico; (b) the Joint Public Advisory Committee, made up of five private citizens from each of the NAFTA Parties; and (c) the Secretariat, made up of professional staff, located in Montreal, Canada.

At the 2005 Council Session in Quebec City, Canada, the Council adopted a five-year strategic plan that establishes goals and objectives to meet the Council's three priorities: the development of Information for Decision Making, support for Capacity Building, and ongoing work to address Trade and

Environment issues more effectively in order to promote environmental protection and sustainability. Specific information on the CEC's activities can be found in Chapter V.

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects, in furtherance of the goals of the NAFTA and the NAAEC. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with more than 100 communities throughout the United States-Mexico border region to address their environmental infrastructure needs. As of September 30, 2005, the NADB had authorized $704 million in loans and/or grant resources to partially finance 105 infrastructure projects certified by the BECC with an estimated cost of $2.41 billion.

4. Middle East Free Trade Area (MEFTA)

USTR made significant progress in implementing the Middle East Free Trade Area (MEFTA) initiative in 2005. The U.S. - Morocco Free Trade Agreement (FTA) successfully entered into force on January 1, 2006. Both houses of Congress passed FTA implementing legislation by significant margins. FTA negotiations with Oman were successfully launched and concluded in 2005, and FTA negotiations were launched with the United Arab Emirates. Progress was also made with WTO accessions with Saudi Arabia joining the WTO in December 2005. The United States continues to actively support the WTO accession efforts of Lebanon, Algeria and Yemen. The United States also held Trade and Investment Framework (TIFA) discussions with other countries in the MEFTA initiative region in 2005 including Tunisia, Algeria and Egypt. The Qualifying Industrial Zone (QIZ) program was expanded in 2005 to include Egypt and shipments between Israel, Egypt and the United States under the QIZ program began in June 2005.

5. Asia-Pacific Economic Cooperation Forum

Overview

The Asia-Pacific Economic Cooperation (APEC) forum has been instrumental in advancing regional and global trade and investment liberalization since it was founded in 1989. It has provided a forum for Leaders to meet annually since 1993, when APEC Leaders met at Blake Island in the United States.

The United States worked closely with Korea, the APEC Chair in 2005, to lead APEC economies in pursuing an ambitious trade liberalization agenda.
APEC helped to advance the WTO's Doha Development Agenda (DDA) negotiations, strengthen IPR protection and enforcement, and set high standards for FTAs. The United States will work with Vietnam, the APEC Chair in 2006, to ensure that APEC continues to take concrete actions in each of these areas.

The 21 APEC economies collectively account for 46 percent of world trade and 57 percent of global GDP. The growth in U.S. goods exports to APEC clearly demonstrates the benefits of open markets and trade liberalization. Since 1994, U.S. exports to APEC economies increased by 62 percent. In 2004, two-way trade with APEC economies totaled $1.5 trillion, an increase of 15 percent from 2003.

2005 Activities

Leadership in the WTO

APEC economies continued to exercise leadership in the WTO. In November 2005, APEC Leaders issued a strong political statement of support for the DDA negotiations. Their statement affirmed that the DDA must be concluded by the end of 2006 at the high level of ambition established in the Doha Declaration and called for breaking the impasse in agricultural negotiations, particularly with respect to the market access pillar. In June 2005, APEC Trade Ministers unanimously endorsed an ambitious tariff-reducing formula ("Swiss formula") for nonagricultural goods.

The APEC Geneva Caucus, comprised of ambassadors to the WTO from APEC economies, continued to serve as an important link between APEC and the WTO. In 2005, the Caucus worked to advance the DDA negotiations in areas such as tariff elimination of information technology products and trade facilitation.

Recognizing that capacity building is a key element in advancing the DDA negotiations, APEC Leaders and Ministers agreed to increase APEC's capacity building efforts, particularly in those areas where APEC can best add value. Several capacity building programs were conducted in 2005, including the May 2005 Workshop on Best Practices in Trade Facilitation Capacity Building.

Advancing Trade Liberalization in the APEC Region

<u>A Mid-Term Stocktake of Progress Towards the Bogor Goals -- Busan Roadmap to Bogor Goals</u>

In 2005, APEC economies undertook a review ("A Mid-Term Stocktake") to assess progress towards achieving the 1994 "Bogor Goals" of free and open trade and investment in the APEC region by 2010 for industrialized economies and 2020 for developing economies. The review clearly underscores that APEC economies have made significant progress in liberalizing their trade and investment regimes since 1994. For example, average applied tariffs of APEC economies have been reduced significantly since APEC's inception – from 16.9 percent in 1989 to 5.5 percent in 2004. Reductions in trade and investment barriers have correlated with increased trade and investment flows. Intra-APEC trade in goods and services more than tripled between 1989 and 2003. FDI inflows to the APEC region increased more than five-fold over that same period. Real GDP in the APEC region grew by 46 percent between 1989 and 2003, compared to 36 percent for non-APEC economies over the same period.

APEC economies still have significant work to undertake to achieve the Bogor Goals. Therefore, they agreed on the "Busan Roadmap" as the framework to reach the Bogor Goals. The Busan Roadmap sets out six critical actions, including: (i) redoubling efforts to advance the DDA negotiations; (ii) promoting high-quality FTAs; and (iii) launching a new "Busan Business Agenda" designed to improve the regional business environment. The Busan Roadmap is action–oriented and reflects private sector priorities.

For example, the Busan Business Agenda calls for further reductions in trade transaction costs by five percent by 2010, and new work on IPR protection and enforcement, investment and secure trade.

<u>Intellectual Property Rights Protection and Enforcement</u>

The APEC region is one of the world's most dynamic economic regions, and intellectual property protection and enforcement have clearly contributed to innovation, investment, and growth in the region. It is appropriate that APEC is at the forefront of combating piracy and counterfeiting.

In June 2005, APEC economies agreed on a comprehensive anti-counterfeiting and piracy initiative sponsored by the United States, Korea, and Japan. The initiative aims to strengthen IPR enforcement, increase cooperation between APEC member economies, and increase capacity building.

Under the anti-counterfeiting and piracy initiative, APEC Leaders and Ministers in November 2005 endorsed three sets of model guidelines. First, model guidelines were developed to reduce trade in counterfeit and pirated goods that deal with the inspection, suspension, seizure, and destruction of those goods. The second set of model guidelines are aimed at helping APEC economies develop domestic measures to reduce on-line piracy and protect against unauthorized copying in digital form. The third set of model guidelines are aimed at helping APEC member economies develop domestic measures to prevent the sale of counterfeit and pirated products over the Internet. These guidelines set high standards for IPR protection and enforcement in the APEC region, and support ongoing work in the Administration's Strategy Targeting Organized Piracy (STOP!) initiative. The United States also obtained APEC Leaders' and Ministers' agreement to pursue work on IPR protection and enforcement in 2006 in close consultation with the private sector and building on the work completed in 2005.

Free Trade Agreements (FTAs) and Regional Trade Agreements (RTAs)

An important issue addressed in APEC in 2005 was the growing number of FTAs and RTAs in the region, and the need to ensure that the APEC economies' agreements are trade-promoting and reflect high-standards. To set a high level of ambition, APEC Leaders in 2004 welcomed a set of "APEC Best Practices for RTAs and FTAs", which provide that, among other things, APEC economies' agreements should go beyond WTO commitments and explore areas not covered by the WTO. In 2005, APEC economies built on the Best Practices by agreeing on trade facilitation model measures for FTAs and RTAs. The model measures cover transparency, consistency, release of goods, modernization and paperless trading, risk management, cooperation, fees and charges, confidentiality of information, express shipments, review and appeal, penalties, and advance rulings. APEC economies agreed to develop model measures for additional FTA and RTA chapters in 2006 and beyond.

To enhance transparency, APEC economies reported for the first time in 2005 on their FTAs and RTAs as part of the annual reviews of APEC economies' trade and investment regimes.

Technology Choice

In 2005, the United States made further progress on its Technology Choice initiative. APEC hosted a special dialogue on technology choice in February, focusing on the relationship between the promotion of innovation and the development of knowledge-based economies and technology neutral policies and regulations; open, international, and voluntary standards; and non-discriminatory, transparent, technology neutral, and merit-based government procurement policies. The United States also obtained APEC Ministers' agreement to work towards developing a set of technology choice principles in 2006.

Private Sector Involvement

The APEC Business Advisory Council

The APEC Business Advisory Council (ABAC) was extremely active in 2005, offering recommendations and participating in government-business dialogues to advance several key APEC priorities, including the DDA negotiations, customs and trade facilitation, cargo security, standards and conformance, and transparency and anti-corruption.

In June 2005, ABAC members met with representatives from WTO members in Geneva to deliver the message that an open and predictable trading environment is necessary for business to flourish, making the successful conclusion of the DDA negotiations vitally important.

They advocated moving forward on agricultural issues to unlock progress in other areas, elimination and substantial removal of barriers to trade in non-agricultural goods, submission of high-quality offers on services, an ambitious outcome in trade facilitation negotiations, and improved disciplines in rules.

Life Sciences Innovation Forum

In 2005, APEC Ministers endorsed recommendations for priority initiatives to implement the Strategic Plan to Promote Life Sciences Innovation. The four priority areas are research, access to capital, harmonization with international standards, and health services. These initiatives will promote the development of an environment that fosters bio-medical life sciences innovation and help APEC economies develop the necessary infrastructure to meet emerging health and economic challenges, including infectious and chronic diseases and the trend in ageing demographics. Under the umbrella of the Life Sciences Innovation Forum, the United States organized a capacity-building workshop to help APEC economies bring their regulatory regimes for medical devices into alignment with the international standards of the Global Harmonized Task Force (GHTF).

Automotive, Chemical, and Non-Ferrous Metals Dialogues

The Automotive, Chemical, and Non-Ferrous Metals Dialogues are public-private sector dialogues in which government officials and senior industry representatives work together to map out strategies for increasing integration and liberalizing trade in the automotive, chemical, and non-ferrous metals sectors in the APEC region.

In 2005, the Automotive Dialogue introduced its customs and trade facilitation work to the Chair of the WTO Negotiating Group on Trade Facilitation to help support the work of that Group. The Automotive Dialogue approved a Model Port Project, which will develop best practices that would eliminate customs barriers. The Automotive Dialogue shared its work on rules of origin and certification determination with APEC economies in order to influence ongoing FTA negotiations in the APEC region.

The Chemical Dialogue continued its examination of the potential negative impact of the EU's proposed chemical regulations (REACH), with Dialogue Co-Chairs sending a letter in April 2005 to the EU Parliament, followed by a letter in July 2005 to the EU President. Both letters expressed APEC economies' concerns with the proposed REACH system. Also in the regulatory area, the Chemical Dialogue shared information and raised awareness about chemical industry and individual government concerns with the United Nations Environmental Programme's work to conclude a "Strategic Approach to International Chemicals Management."
APEC economies continued their work to adopt the UN Globally Harmonized System of Classification and Labeling (GHS). The Chemical Dialogue also reached agreement on a recommendation on rules of origin for chemicals that APEC economies could use in FTAs.

Further work was undertaken to address priority non-tariff measures on smuggling/counterfeiting more effectively, product registration procedures, and treatment of confidential business data for chemicals.

The Non-Ferrous Metals Dialogue held its first meeting in May 2005. The Dialogue examined ways to strengthen multilateral cooperation in the APEC region to identify and address barriers to trade and investment in non-ferrous metals markets through increased industry participation.

A network of non-ferrous metals industries was established from which to solicit input to develop a collective action plan for the Dialogue. Possible areas of work could include: (1) reduction and elimination of export restrictions on metals/commodities in the form of export taxes, quotas, and other regulatory requirements; (2) reduction and elimination of restrictive policies that deter exploration and foreign investment in the metals and mining sector, i.e., complex licensing requirements; (3) facilitation of transparency in the non-ferrous metals markets to improve conditions for investment; and (4) promotion of good governance. The Dialogue also agreed to coordinate with the Chemical Dialogue and APEC Ministers Responsible for Mining in addressing concerns with the EU's proposed chemical regulation (REACH).

The APEC Privacy Framework

In 2005, Ministers endorsed the Guidance for International Implementation of the APEC Privacy Principles, a key step towards full implementation of the APEC Privacy Framework. The APEC Privacy Framework, which was endorsed by APEC Leaders and Ministers in 2004, will make a significant contribution to increasing cross-border trade in the region by promoting a consistent approach to information privacy protection that avoids the creation of unnecessary barriers to information flows. In 2006, work on this issue will focus on progress towards the domestic implementation of the APEC Privacy Principles, as well as on the development of cross-border privacy rules.

C. The Americas

1. Canada

a. Softwood Lumber

The United States and Canada have been involved in a dispute over trade in softwood lumber for more than two decades. The current dispute began when the Softwood Lumber Agreement expired in 2001. After the Agreement expired, the U.S. industry filed antidumping (AD) and countervailing duty (CVD) petitions. The U.S. International Trade Commission (ITC) determined that the U.S. lumber industry was threatened with material injury by reason of imports of dumped and subsidized Canadian softwood lumber, and the Department of Commerce ("Commerce") found company-specific antidumping rates ranging from 2.18 percent to 12.44 percent and a country-wide subsidy rate of 18.79 percent.

On December 14, 2004, Commerce announced the results of its first administrative review of the AD and CVD orders, in which it calculated AD duty rates ranging from 0.91 percent to 9.10 percent, and a CVD rate of 17.18 percent.
On December 6, 2005, Commerce announced the results of its second administrative review of the AD and CVD orders, with AD rates ranging from 0.51 percent to 4.43 percent, and a CVD duty rate of 8.70 percent.

To date, Canadian interests have filed more than two dozen cases challenging the orders in various fora, including under the NAFTA, at the WTO, and in the U.S. Court of International Trade.
The United States continues to believe that it is in the interests of both the United States and Canada to reach a negotiated solution to their longstanding differences over softwood lumber. This view is shared by stakeholders on both sides of the border.

The United States is committed to seeking a resolution to this dispute and remains hopeful that we will be able to resume negotiations with Canada in the near future. In the meantime, the litigation will continue, and the United States will vigorously enforce its trade remedy laws to ensure a level playing field for the U.S. industry.

b. Agriculture

Canada is the largest market for U.S. food and agricultural exports. For fiscal year 2005 (October 2004 to September 2005), U.S. agricultural exports to Canada grew by nearly 8 percent to a record breaking $10.3 billion. In fact, one of every six U.S. dollars of exported agricultural products goes to Canada.

As a result of the 1998 U.S.-Canada Record of Understanding on Agricultural Matters (ROU), the U.S.-Canada Consultative Committee (CCA) and the Province/State Advisory Group (PSAG) were formed to provide fora to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture.

In 2004, the CCA met twice on issues covering livestock, fruits and vegetables, grain, seed, processed food, and plant trade, as well as pesticide and animal drug regulations. In October 2005, the CCA meeting reinforced the close working relationship between the two governments, as well as their respective private agriculture sectors.

Canada has long maintained regulations that prohibit the entry of bulk shipments of fruits and vegetables. Based on a request of the National Potato Council, the United States, in December 2003, requested negotiations with Canada to discuss removing its trade distortive regulation for U.S. potatoes and other produce. In 2004 and 2005, the United States and Canada held several meetings regarding bulk restrictions and will continue discussions in 2006.

The U.S. Government also has concerns about the monopolistic marketing practices of the Canadian Wheat Board. USTR announced an approach to leveling the playing field for American farmers in 2002 and that strategy is producing important results. Most notably, in WTO dispute settlement proceedings against the Canadian Wheat Board and the Government of Canada, a WTO panel found in favor of the United States on claims related to Canada's grain handling and transportation systems. Canada now must comply with those findings. In order to comply with the WTO panel's findings, the Government of Canada introduced and passed Bill C-40 in May 2005, which amended the Canada Grain Act and Canada Transportation Act.

In addition, the United States is seeking reforms to state trading enterprises (STEs) as part of the WTO agricultural negotiations. The U.S. proposal calls for: (1) the end of exclusive STE export rights to ensure private sector competition in markets currently controlled by single desk exporters;

(2) the establishment of WTO requirements to notify acquisition costs, export pricing, and other sales information for single desk exporters; and (3) the elimination of the use of government funds or guarantees to support or ensure the financial viability of single desk exporters.

c. Intellectual Property Rights

Canada is a member of the World Intellectual Property Organization (WIPO), and adheres to several international agreements, including the Paris Convention for the Protection of Industrial Property (1971), the Berne Convention for the Protection of Literary and Artistic Works (1971), and the 1952 Universal Copyright Convention (UCC). Canada is also a signatory of the WIPO Copyright Treaty and the WIPO

Performances and Phonograms Treaty (together the WIPO Treaties), which set standards for intellectual property protection in the digital environment. While Canada has not yet ratified either treaty, however, ratification legislation was introduced into Canada's Parliament in 2005. This legislation will have to be reintroduced following the November 2005 fall of the Canadian government, and will not pass until 2006 at the earliest. In addition, the legislation, as presently drafted, does not comply with the WIPO treaties. U.S. intellectual property owners are concerned about Canada's border measures and general enforcement that appear not to comply with TRIPS requirements.

The lack of *ex officio* authority for Canadian Customs officers makes seizure of counterfeit goods entering Canada difficult. For Canadian Customs to perform a civil seizure of a shipment under the Customs Act, the rights holder must obtain a court order, which requires detailed information on the shipment. Once pirated and counterfeit products clear Canadian Customs, enforcement is the responsibility of the Royal Canadian Mounted Police (RCMP) and the local police.

Because Canadian laws are inadequate to address IPR issues, few prosecutors are willing or trained to take on the cases that arise. In those instances when an infringement case has been tried, the penalties imposed can be too weak to act as a deterrent, with jail time rarely imposed. Border enforcement concerns were a major factor in keeping Canada on the Special 301 "Watch List" in 2005.

2. Mexico

Mexico is our second largest single-country trading partner and has been among the fastest-growing major export markets for goods since 1993, with U.S. exports up 188 percent over the period. The NAFTA has fostered this relationship by virtue of the Agreement's comprehensive, market-opening rules. It is also creating a more equitable set of trade rules as trade barriers in Mexico are reduced and eliminated.

a. Agriculture

North American agricultural trade has grown significantly since the NAFTA was implemented. Mexico is currently the United States' second-largest agricultural export market. For 2005, U.S. agricultural exports to Mexico increased 11 percent from 2004, to $9.4 billion (based on annualized data for the first 11 months of 2005).

The Administration has had notable success over the last year in addressing concerns over Mexico's antidumping regime. In November 2003, at the request of the United States, the WTO established a dispute settlement panel with regard to Mexico's antidumping order on long grain white rice and provisions of its foreign trade law that govern all antidumping proceedings.

In June 2005, the WTO panel ruled in favor of the United States in all major areas of the dispute, determining that Mexico's antidumping duties and various provisions of its antidumping and countervailing duties laws are WTO inconsistent. Mexico appealed the panel's decision, and, in November 2005, the WTO appellate body upheld the earlier panel's findings. This decision is also relevant to the antidumping order imposed by Mexico on U.S. beef, which was also the subject of WTO consultations, and to other products subject to antidumping orders by Mexico.

On December 21, 2005, Mexico announced it was terminating the antidumping investigation against U.S. hams and shoulders that it self-initiated in May 2004. The hams investigation was terminated following the Mexican authorities determination that the Mexican industry was not being injured.

The U.S. and Mexican pork producing and processing industries are increasingly integrated, and the decision to end these investigations will facilitate greater cooperative efforts and trade among our industries.

In May 2005, Mexico announced the elimination of a 46.58 percent antidumping duty on Northwest red and golden delicious apples. However, Mexico subsequently initiated a new antidumping investigation of certain members of the Northwest Fruit Exporters (NFE). In September 2005, Mexico announced the preliminary results of its investigation and imposed a preliminary antidumping duty of 44.67 percent for red and golden delicious varieties on all but three members of the NFE, who received lower or no duties. A final decision is expected in early 2006.

Beyond dumping issues, in June 2004, the United States requested the formation of a WTO dispute settlement panel regarding Mexico's 20 percent tax on soft drinks made with any sweetener other than cane sugar, including high fructose corn syrup (HFCS), in effect since January 1, 2002. In October 2005, the panel ruled in favor of the United States in all major areas of the dispute. In December 2005, Mexico appealed the decision; the Appellate Body's report is expected in spring 2006.

Independent of the WTO action, the United States and Mexico took steps to restart bilateral trade in sweeteners. On September 30, 2005, the Secretariat of the Economy established a duty-free tariff-rate quota for imports of U.S. HFCS of 250,000 metric tons, which will be in place until September 30, 2006. The action mirrored a U.S. decision to establish a duty-free NAFTA tariff-rate quota for imports of 250,000 metric tons of Mexican sugar.

Following U.S. efforts and collaboration with our Mexican partners, Mexico lifted a number of SPS restrictions on U.S. plant and animal products in 2005. Barriers to California avocados, which had been in place for a number of years, were removed in September 2005. Avocados originating in California may, during the first 12 months of the agreement, be distributed in all Mexican states except Michoacán, Jalisco, Morelos, Puebla and Nayarit, and to all Mexican states following this initial 12-month period. Industry sources estimate that annual exports under this agreement could eventually reach as high as $24 million. Another significant success was ending Mexico's nine-year ban on U.S. wheat from any state with karnal bunt detections. This former ban disqualified a significant for a number of states, particularly California, from exporting wheat to Mexico. The lifting of the ban will open the Mexican market to exports of durum, red winter, hard white, and soft white wheats. While Mexico has not yet recognized a systems approach for California stone fruit, both sides have agreed to forward this issue to the North American Plant Protection Organization (NAPPO) for dispute settlement and to abide by NAPPO's ruling.

A number of other successes were also achieved regarding plant restrictions, including the lifting of restrictions on propagative material and progress on stem and leaf regulations that were restricting U.S. tomato exports to Mexico. In addition, expanded access for Idaho potatoes was offered by Mexican officials during a visit by Idaho Governor Kempthorne in December 2005.

On issues related to U.S. exports of animals and animal products, the United States pushed to regain access for bone-in beef exports. Although the Mexican government has not yet announced a resumption of U.S. bone-in beef imports (which is expected), the U.S. was successful in 2005 in securing a bone tolerance allowing United States boneless beef with bits of cartilage to enter.

In addition, USDA successfully opposed an increase in animal inspection fees that had been proposed in the Mexican Congress.

The United States has also resolved other issues affecting agricultural trade with Mexico. For example, USDA officials worked with Mexican Customs to expand the time allowed for correcting mistakes on invoices, saving one company $90,000. USDA officials are also seeking value-added tax exemptions for flavored milks and have already succeeded with some of their requests.

Finally, the United States sought, and received, Mexico's support for an addendum to extend the Trilateral Biotechnology Arrangement (involving NAFTA parties), which had expired October 31. This arrangement was significant, as it addressed the commercial documentation requirements for transboundary shipments containing living modified organisms under the Cartagena Protocol on Biosafety.

b. Telecommunications

Following a successful WTO challenge by the United States in 2004, Mexico complied with the WTO panel's report in 2005. In particular, the provisions of Mexican law that created a uniform tariff and proportional return systems and the requirement that the carrier with the greatest proportion of outgoing traffic to a country negotiate the settlement rate on behalf of all Mexican carriers were removed. As part of its compliance efforts, Mexico's Comisión Federal de Telecomunicaciones (COFETEL) published in August 2005 new regulations for resale-based international telecommunications services in Mexico.

In 2005, COFETEL proposed a rule that would switch mobile phone payment systems to a "calling party pays" system, thereby requiring those placing international and domestic long-distance calls to mobile phones in Mexico to pay for the interconnection and termination of those calls. The proposed rule could result in significant additional costs for U.S. companies and consumers. The United States is awaiting the completion of the Mexican rule-making process.

c. Tequila

Following extensive negotiations, the United States and Mexico reached agreement on tequila in late 2005. Signed on January 17, 2006, the agreement will ensure that Mexican exports of tequila to the United States, valued at approximately $400 million per year, continue without interruption. Mexico will be prohibited from regulating the marketing of tequila in the United States as well as the labeling, formulation, and marketing of distilled spirits specialty products (i.e., products that contain tequila, such as tequila-based liqueurs) outside of Mexico. Finally, the agreement will not impose any new obligations on the United States beyond current U.S. law. The United States is the destination for more than 80 percent of Mexico's tequila exports.

3. Brazil and the Southern Cone

a. Mercosur (Argentina, Brazil, Paraguay, and Uruguay)

The Common Market of the South, referred to as "Mercosur" from its Spanish acronym, is the largest trade bloc in Latin America. As a customs union, Mercosur applies a common external tariff (CET) to products of nonmembers. Its original members (Argentina, Brazil, Paraguay, and Uruguay) make up over one-half of Latin America's gross domestic product. On December 9, Venezuela joined Mercosur as a full member, but still must make certain policy changes before it gains full voting rights.
On December 30, 2005 Bolivia was invited to join as a full member. Bolivia is currently an associate member along with Peru, Colombia, Ecuador and Chile. Associate members benefit from certain preferential access to MERCOSUR markets, but maintain their own external tariff policies.

MERCOSUR became operative on January 1, 1995, and covers some 85 percent of intra-Mercosur trade, with each member allowed to maintain a list of sensitive products that remain outside the duty-free arrangement. Full CET product coverage scheduled for implementation in 2006 may be delayed. The four Mercosur countries generally act as a group in the context of the Free Trade Area of the Americas.

b. Argentina

U.S. goods exports to Argentina were an estimated $4.1 billion in 2005,[22] up 20 percent from 2004, continuing their recovery after a substantial decline in recent years. The overall bilateral trade was an estimated $8.0 billion, and the U.S. deficit was estimated to be $676 million in 2005, up from a deficit of $357 million in 2004. A key factor in the Argentine economy is its trade with Brazil, Argentina's largest trading partner.

Intellectual Property Rights (IPR): Concerns remain as to whether Argentina's IPR regime meets certain TRIPS standards, such as obligations concerning protection for safety and efficacy data submitted to support the approval of pharmaceuticals. Failure to provide adequate protection for copyright and patents has led to Argentina's placement on the Special 301 Priority Watch List and GSP benefits for certain products remain suspended.

c. Brazil

The United States exported goods valued at an estimated $15.0 billion to Brazil in 2005.[23] Brazil's market accounts for 21 percent of U.S. exports to Latin America and the Caribbean excluding Mexico and 58 percent of U.S. goods exports to Mercosur.[24] In 2005, the United States and Brazil met under the auspices of the Bilateral Consultative Mechanism to discuss intellectual property rights (see below), WTO negotiations, SPS issues, and the other issues concerning our bilateral and multilateral trade agenda.

Intellectual Property: The Administration engaged intensively with the Brazilian government on the issue of copyright protection as a result of the review of Brazil's benefits under the GSP trade program that was prompted by an International Intellectual Property Rights Association petition charging that Brazil had failed to offer adequate protection to copyrighted materials. Positive initiatives taken by the Brazilian government, in particular the formation of a public-private National Anti-Piracy Council, the development of a national action plan to combat piracy, and increased police actions, led to closure of the GSP Review in early January 2006.

While the recent progress is significant in improving Brazil's institutional capacity to combat piracy, the Administration will continue to work with Brazil in the Bilateral Consultative Mechanism to seek further improvements to reduce piracy.

d. Paraguay

With a population of just over six million, Paraguay is one of the smaller markets in Latin America. In 2005, the United States exported an estimated $909 million worth of goods to Paraguay.[25]
Paraguay is a major exporter of, and a transshipment point for, pirated and counterfeit products in the region, particularly to Brazil.

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[22] Annualized based on data for January – November 2005.
[23] Annualized based on data for January – November 2005.
[24] Defined as Merc 6—Argentina, Brazil, Paraguay, Uruguay, Bolivia, and Chile.
[25] Annualized based on 11 months' data.

U.S.-Paraguay Bilateral Council on Trade and Investment: In 2005, the Bilateral Council on Trade and Investment met three times to discuss a wide range of issues including efforts to increase transparency in government-business relationships, implementation of the IPR MOU, ongoing cooperation toward a strategic plan for Paraguay to develop non-traditional exports and other issues concerning our bilateral and multilateral trade agenda.

Intellectual Property Rights (IPR): In January 1998, the USTR identified Paraguay as a "Priority Foreign Country" under the "Special 301" provisions of the Trade Act of 1974. The USTR initiated an investigation of Paraguay in February 1998. During investigations under Special 301, Paraguay indicated that it had undertaken a number of actions to improve IPR protection. In 1998, in light of commitments made by Paraguay in a bilateral Memorandum of Understanding (MOU), USTR concluded its Special 301 investigation. In 2003, the two governments revised and extended the term of the MOU. Paraguay has made a significant effort to implement the MOU, signed in March 2004, and met regularly with the United States under the auspices of the Bilateral Council on Trade and Investment (see below) to discuss MOU implementation.

e. Uruguay

With the smallest population among Mercosur members (3.4 million), Uruguay nonetheless imported an estimated $354 million of goods from the United States in 2005. In 2005, the United States and Uruguay signed a Bilateral Investment Treaty (BIT), the first BIT concluded by the United States on the basis of its 2004 model BIT text. As in the investment chapters of recent bilateral FTAs, the United States-Uruguay BIT includes several key provisions that respond to the investment negotiating objectives set forth by Congress in the Trade Promotion Act of 2002. The core provisions of the United States-Uruguay BIT will give U.S. investors a number of critical protections when they establish businesses in Uruguay, including non-discriminatory treatment, the ability to transfer funds relating to their investments, and access to binding international arbitration of investment disputes.

f. Chile

The United States-Chile Free Trade Agreement entered into force on January 1, 2004 and provides the framework for our bilateral trade relations. Developments in 2005 with respect to the United States-Chile FTA are discussed in Chapter III, section A.3.

4. The Andean Community

a. The Andean Region

i. U.S.-Andean Trade Promotion Agreement Negotiations

On November 18, 2003, after consulting with relevant congressional committees and the Congressional Oversight Group, the Office of the United States Trade Representative notified the Congress of the President's intent to initiate free trade agreement negotiations with Colombia, Peru, Ecuador, and Bolivia and identified specific objectives. Negotiations on the United States-Andean Free Trade Agreement were launched on May 18, 2004 in Cartagena, Colombia. Through 2005 there were twelve additional negotiating rounds involving the governments of Colombia, Peru, and Ecuador, with Bolivia observing the negotiations.

See Chapter III, Section A.10 for the discussion of these negotiations.

ii. Andean Trade Preference Act

The U.S. trade relationship with the Andean countries is currently conducted in the framework of the unilateral trade preferences of the Andean Trade Preference Act (ATPA), as amended by the Andean Trade Promotion and Drug Eradication Act (ATPDEA). Congress enacted the ATPA in 1991 in recognition of the fact that regional economic development is necessary in order for Bolivia, Colombia, Ecuador and Peru to provide economic alternatives for the illegal drug trade, promote domestic development, and thereby solidify democratic institutions. The ATPDEA was signed into law on August 6, 2002 as part of the Trade Act of 2002. The program provides enhanced trade benefits for the four ATPA beneficiary countries. The program will expire at the end of 2006.

The original ATPA expired in 2001. The ATPDEA retroactively restored the benefits of the ATPA, providing for retroactive reimbursement of duties paid during the lapse. In addition, the original ATPA excluded from duty-free treatment products in several sectors including; textiles, apparel, footwear, articles of leather, and tuna in airtight containers. The ATPDEA expanded the list of items eligible for duty-free treatment by about 700 products.

The most significant expansion of benefits in the ATPA, as amended by the ATPDEA, was in the apparel sector. Apparel assembled in the region from U.S. fabric or fabric components or components knit-to-shape in the United States may enter the United States duty-free in unlimited quantities. Apparel assembled from Andean regional fabric or components knit-to-shape in the region may enter duty-free subject to a cap. The cap is set at 2 percent of total U.S. apparel imports, increasing annually in equal increments to 5 percent.

iii. ATPDEA Eligibility

The ATPA established a number of criteria that countries must meet in order to be designated as eligible for the program. The ATPDEA added further eligibility criteria and provided for an annual review of the countries' eligibility. The new criteria relate to issues such as intellectual property rights, worker rights, government procurement procedures, and cooperation on countering narcotics and combating terrorism.

USTR initiated the 2005 ATPA Annual Review through a notice in the *Federal Register* dated August 18, 2005. USTR received petitions to review certain practices in certain beneficiary developing countries to determine whether such countries were in compliance with the ATPA eligibility criteria.
Petitions were filed with respect to an investor dispute with Peru. In addition, USTR kept under review certain of the petitions that had been filed in the 2003 and 2004 ATPA Annual Reviews, as they concerned matters for which a resolution was still pending. In 2005, the ATPA process helped resolve certain investor disputes with Peru worth about $17 million.

5. Central America and the Caribbean

a. Free Trade Agreement with Central America and the Dominican Republic

See Chapter III, Section A for a discussion of this topic.

b. Central America

CACM: The United States is Central America's principal trading partner. The Central American Common Market (CACM) consists of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, and provides duty-free trade for most products traded among the five countries.

Panama, has observer status and Belize participate in CACM summits but not in regional trade integration efforts. The Central American countries focused largely on CAFTA-DR negotiations and implementation during 2004, 2005, and early 2006, but continued less actively to pursue a range of bilateral and regional trade agreements.

Canada has an FTA with Costa Rica, and Canada's negotiations with El Salvador, Guatemala, Honduras and Nicaragua have made some progress after the completion of the CAFTA. Negotiations for a Panama-CACM free trade agreement have resulted in agreement on common disciplines. All of the countries are participants in the FTAA negotiations.

Panama: The United States and Panama have strong, long-standing commercial and economic ties. Bilateral trade between the United States and Panama totaled $2.2 billion in 2004, of which U.S. exports accounted for $1.8 billion. Panama receives about fifty percent of its imports from the United States. In addition, the United States holds approximately $6 billion in foreign direct investment in Panama, in sectors such as finance, maritime and energy.

As evidence of the mutual commitment to deepen trade relations, the United States and Panama launched negotiations on a bilateral United Sates-Panama Free Trade Agreement in April 2004. Six rounds of negotiations were held during 2004, and three additional rounds were held in 2005 and early 2006.

Panama is a participant in the FTAA and during 2004 served as chair for the Negotiating Group on Investment.

c. Caribbean Basin Initiative

The Caribbean Basin Initiative (CBI) currently provides 24 beneficiary countries and territories with duty-free access to the U.S. market. They are: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago.

During 2004, the trade programs collectively known as the CBI remained a vital element in U.S. economic relations with its neighbors in Central America and the Caribbean. CBI was initially launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA). It was substantially expanded in 2000 through the United States - Caribbean Basin Trade Partnership Act (CBTPA). The Trade Act of 2002 increased the type and quantity of textile and apparel articles eligible for preferential tariff treatment accorded to designated beneficiary CBTPA countries. Among other actions, the Trade Act of 2002 extended duty-free treatment for clothing made in beneficiary countries from both U.S. and regional inputs, and increased the quantity of clothing made from regional inputs that regional producers can ship duty-free to the United States annually.

Since its inception, the CBERA program has helped beneficiaries diversify their exports. On a region-wide basis, this export diversification has led to a more balanced production and export base and has reduced the region's vulnerability to fluctuations in markets for traditional products. Since 1983, the year prior to the implementation of the CBI, total CBI country non-petroleum exports to the United States have more than tripled. Light manufactures, principally printed circuit assemblies and apparel, but also medical instruments and chemicals, account for an increasing share of U.S. imports from the region and constitute the fastest growing sectors for new investment in CBERA countries and territories.

In 2004, the Administration continued to work with Congress, the private sector, CBI beneficiary countries, and other interested parties to ensure a faithful and effective implementation of this important expansion of trade benefits. The United States has concluded negotiations, signed and ratified a free trade agreement (CAFTA-DR) with several CBI beneficiaries (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic), as called for in the legislation. The agreement locks in preferential market access benefits for the Central American countries and the Dominican Republic while simultaneously opening their markets to U.S. products. In the second quarter of 2004, USTR launched FTA negotiations with Panama, another CBI beneficiary.

Apparel remains one of the fastest growing categories of imports from the CBI countries and territories - growing from just 5.5 percent of total U.S. imports from the region in 1984, to nearly 40 percent in 2005, valued at $10 billion.

When the CAFTA-DR enters into force for El Salvador, Guatemala, Honduras, Nicaragua, Costa Rica, and the Dominican Republic, each country will no longer be eligible for the CBI program benefits, although the CAFTA-DR will provide market access that is the same or better than the access provided under the CBI program.

In co-production arrangements with CAFTA-DR countries, the remaining CBI beneficiary countries will be able to continue to count inputs from the former beneficiaries towards qualifying for CBI benefits.

d. The Caribbean

The Dominican Republic: The Dominican Republic is the largest single U.S. trading partner in the CBI region, with bilateral trade of $7.9 billion in 2004. Reflecting the importance of this trade relationship, the United States undertook negotiations with the Dominican Republic, between January and March 2004, to integrate that country into the free trade agreement already negotiated with Central America. On August 5, 2004, the United States, the Dominican Republic and five Central American countries together signed the CAFTA-DR.

The Dominican Republic continued to lead all countries in taking advantage of CBI, as they have done in virtually every year since the program became effective, accounting for 25 percent of U.S. imports under CBI provisions.

Following entry into force of CAFTA, the Dominican Republic will no longer be eligible for CBI benefits. However, the Dominican Republic inputs will continue to count as qualifying when incorporated into products of remaining CBI beneficiaries. Textile and apparel goods that are co-produced in Haiti and the Dominican Republic will continue to qualify for duty-free treatment under the CBI program.

The Dominican Republic does not belong to any regional trade association, but has negotiated trade agreements with its partners in Central America and CARICOM. Unilateral liberalization and fiscal reform efforts have made the Dominican Republic one of the fastest growing economies over the last decade and an economic engine in the Caribbean Basin. The Dominican Republic’s strong trade relations within the Caribbean, including with neighboring Puerto Rico and with Central America, establish it as an economic bridge within the region. The CAFTA-DR reflects the Dominican Republic’s central role and firm commitment to further liberalization of its already relatively open trade and investment regime. The Dominican Republic has also worked with the United States to advance common objectives in the FTAA negotiations and was chair of the FTAA Negotiating Group on Intellectual Property.

CARICOM: Members of the Caribbean Community and Common Market (CARICOM) are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago. In theory, CARICOM is a customs union rather than a common market. However, progress towards a customs union, which would involve the elimination of all internal tariffs, remains limited.

CARICOM countries participate in the FTAA negotiations and the United States works with them on the Doha Development Agenda. In addition, the United States works with CARICOM countries on trade capacity building initiatives.

D. Europe and Eurasia

1. European Union

Overview

The U.S. economic relationship with Europe is the largest and most complex in the world. Due to the size and the highly integrated nature of the transatlantic economic relationship, serious trade issues inevitably arise. Even when small in dollar terms, especially compared with the overall value of transatlantic commerce, these issues can nonetheless take on significance for their precedent-setting impact on U.S. trade policies.

U.S. trade relations with Europe are dominated by its relations with the 25 countries of the European Union (EU). The EU currently constitutes a market of some 450 million consumers with a total gross domestic product of more than $11 trillion. U.S. goods exports in 2005 were $187 billion and U.S. exports of private commercial services (i.e., excluding military and government) to the European Union were $115 billion in 2004 (latest data available).

During 2005, USTR actively engaged with the EU Member States on the full range of U.S. trade concerns, and also expanded cooperative efforts to enhance the transatlantic economic relationship. Key issues addressed include;

a. Subsidies for Large Commercial Aircraft

The United States has long expressed its concerns with European government subsidization of large commercial aircraft (LCA) development by Airbus. The issue has acquired new urgency in recent years as Airbus sought and received substantial new subsidies (so-called “launch aid”) for the Airbus A380 super jumbo aircraft and commitments of further launch aid subsidies for its new A350 passenger aircraft. At a time when Airbus is delivering more aircraft than its U.S. rival, the Boeing Company, the United States believes that there is no justification for continued subsidies to Airbus. In 2004 and 2005, USTR attempted to work with the European Commission to establish a new agreement aimed at eliminating LCA subsidies. The Commission’s reluctance to negotiate such an agreement led the United States to request initiation of dispute settlement procedures at the WTO (as the United States believes Airbus subsidies violate the WTO Agreement on Subsidies and Countervailing Measures). The EU requested its own WTO dispute settlement proceeding in relation to alleged U.S. federal and state government subsidies to Boeing. Although the United States would prefer to reach a negotiated solution, it is prepared to see its WTO case through to completion if necessary.

b. Geographical Indications

As a result of a WTO dispute launched by the United States, the WTO Dispute Settlement Body (DSB) ruled on April 20, 2005 that the EC's regulation on food-related geographical indications (GIs) is inconsistent with the EC's obligations under the TRIPS Agreement and the GATT 1994. The DSB ruled that the EC's GI regulation impermissibly discriminates against non-EC products and persons and also agreed with the United States that the regulation could not create broad exceptions to trademark rights guaranteed by the TRIPS Agreement.

The DSB recommended that the EC amend its GI regulation to come into compliance with its WTO obligations. The EC has indicated an intent to comply, and, by agreement with the United States, has until April 3, 2006, to do so. Separately, the United States continues to have concerns about the EU's regime concerning geographical indications for wine and spirits -- including Council Regulation 1493/99.

c. Agricultural Biotechnology

In May 2003, the United States initiated a WTO dispute settlement process related to the EU's *de facto* moratorium on approvals of agricultural biotechnology products and the existence of individual Member State marketing prohibitions on agricultural biotechnology products previously approved at the EU level. Since that time, consultations were held and a panel formed to consider the case. The first panel meeting was in June 2004. The panel report is expected to be issued in mid 2006.

In 2004, the EC approved some pending agricultural biotechnology crop petitions for products imported for the purposes of processing, animal feed, and food use. These were the first approvals made by the Commission since 1998. The approval process, however, is not yet grounded on scientific principles, and it has not proved possible to assemble in the Council of Ministers a qualified majority of EU Member States to support product approvals, despite the lack of any science-based health or safety reason to reject them. The Council of Ministers has not acted on product applications that have been approved by the relevant scientific committees on the Commission. Therefore, after two lengthy periods of consideration by the Council, petitions have been sent back to the Commission for final adjudication (the Commission approved both petitions). No approval for cultivation has yet made it through the process.

Several EU Member States, including Austria, Luxembourg, and Italy, continue to maintain their national marketing bans on some biotechnology products despite existing EU approvals. After more than five years in some cases, the Commission has begun to take steps to overturn these EU Member State bans.

In April 2004, EC Regulations 1829/2003 and 1830/2003 governing the traceability and labeling of biotechnology food and feed entered into force. The regulations include mandatory traceability and labeling requirements for all agricultural biotechnology and downstream products. In some cases, these directives have already severely restricted market access for U.S. food suppliers, because food producers have reformulated their products for the EU market to exclude agricultural biotechnology product inputs. The regulations are expected to have a negative impact on a wide range of U.S. processed food exports.

d. Customs Administration Procedures

While the customs law of the EU is set forth in the Community Customs Code, the EU does not in fact currently operate as a single customs administration. Administration of the Community Customs Code is the responsibility of EU Member State customs administrations, which do not have identical working practices and are not obliged to follow each other's decisions.

The difficulties presented by non-uniform administration are exacerbated by the absence of any forum for prompt EU-wide review and correction of customs decisions. Review by the European Court of Justice of national decisions regarding customs administrative matters may be available in some cases, but generally only after an affected party proceeds through multiple layers of member state domestic court review. Obtaining corrections with EU-wide effect for administrative actions relating to customs matters may take years.

Given the growing negative consequences of deficiencies in the EU's customs administration and review procedures, the United States in September 2004 initiated WTO consultations on these matters. Subsequently, in March 2005, a dispute settlement panel was formed to consider U.S. complaints. The panel's report is expected in mid-2006.

e. Enhancing Transatlantic Economic Relations

The huge size, advanced integration, and generally robust health of the transatlantic trade and investment relationship have provided an anchor of prosperity for both sides of the Atlantic, even as economic conditions in other parts of the world fluctuate. Recognizing the benefits of preserving and enhancing these productive ties, the United States and the EU for some time have been interested in exploring ways to create new opportunities for transatlantic economic activity. The 1995 New Transatlantic Agenda, 1998 Transatlantic Economic Partnership and 2002 Positive Economic Agenda initiatives, all launched at various U.S.-EU Summits, had as their common goal the deepening and systematizing of bilateral cooperation in the economic field.

At the June 2004 U.S.-EU Summit, President Bush, Commission President Prodi and Irish Prime Minister Ahern agreed to the Joint Declaration on Strengthening Our Economic Partnership, which initiated a government discourse with business, labor, consumers and other elements of civil society on concrete ways for governments to improve U.S.-EU economic interaction. The results of these stakeholder consultations yielded the U.S.-EU Initiative to Enhance Transatlantic Economic Integration and Growth which was announced at the June 2005 U.S.-EU Summit. The Summit also yielded a declaration on U.S.-EU cooperation against Global Piracy and Counterfeiting, which is viewed as an important step for promoting enhanced cooperation on IPR matters.
The Economic Initiative includes a forward-looking agenda of cooperative activities intended to expand economic opportunity, promote prosperity, and maintain the health and safety of our citizens. At the U.S.-EU Economic Ministerial in November 2005, the governments issued a work program that details the specific initiatives that U.S. and European officials have agreed to pursue in a range of topics, including regulatory cooperation, innovation, capital markets, trade and security, and intellectual property rights.

f. Regulatory Cooperation

Trade obstacles arising from divergences in U.S. and EU regulations and the lack of transparency in the EU rulemaking and standardization processes are an increasingly important focus of transatlantic economic initiatives. During 2005, USTR expanded efforts to enhance U.S.-EU regulatory cooperation and reduce unnecessary "technical" barriers to transatlantic trade.
Through increased regulatory cooperation, we aim to promote quality regulation, minimize US-EU regulatory divergences and facilitate transatlantic commerce.

At the June 2005 U.S.-EU Summit, the United States and European Commission issued the 2005 Roadmap for U.S.-EU Regulatory Cooperation to significantly expand and deepen the scope of transatlantic regulatory cooperation and promote a stronger economic relationship.

The Roadmap outlines specific cooperation activities in 15 sectors: pharmaceuticals, auto safety, information and communications technology, cosmetics, consumer product safety, food safety, nutritional labeling, consumer protection enforcement, unfair commercial practices, marine equipment, eco-design of electrical/electronic products, chemicals, energy efficiency, telecommunications equipment and medical devices. As a horizontal initiative, the Roadmap established an informal dialogue on good regulatory practices between the U.S. Office of Management and Budget and the European Commission. The United States and EU also initiated a Regulatory Cooperation Forum through which U.S. and European regulators will exchange views, share experiences, and learn from each other regarding general or crosscutting regulatory cooperation approaches and practices of mutual interest. Implementation of the Roadmap and Forum is proceeding.

g. Foreign Sales Corporation Tax Rules

On October 14, 2004, Congress passed the American Jobs Creation Act (AJCA), designed in part to repeal provisions of the FSC Repeal and Extraterritorial Income Exclusion Act (ETI Act) that had been found to constitute a WTO-inconsistent export subsidy. Unfortunately, in November 2004, the EU asked the WTO once again to review the U.S. compliance efforts in the FSC dispute. The EU based its request on its dissatisfaction with transition provisions in the AJCA that provided for a general two-year phase-out of the ETI provision and the grandfathering of certain pre-existing binding contracts. The EU did so notwithstanding the fact that such transition provisions are standard in major U.S. tax legislation and that the grandfathering provision, in particular, was of relatively limited commercial value. The EU's General Affairs and External Relations Council adopted, without debate, a Regulation that provided for the lifting of sanctions on U.S. products in the form of additional duties as of January 1, 2005. However, the Regulation, which entered into force on February 1 (Council Regulation (EC) No 171 / 2005), provides for the automatic re-imposition of sanctions should the WTO find continued non-compliance by the United States. In that event, sanctions would resume on January 1, 2006, or 60 days after (whichever date is later) the WTO Dispute Settlement Body rules that the AJCA is inconsistent with U.S. WTO obligations. On September 30, 2005, a WTO panel found that the transition provisions of the AJCA were inconsistent with U.S. WTO obligations.

On November 14, the United States appealed the panel report, and the appeal is pending at this time. Regardless of the outcome of the appeal, the United States believes the AJCA, providing as it does for a major reform of U.S. tax rules in order to meet WTO requirements, should satisfactorily address EU concerns and that EU retaliatory sanctions should now be lifted in their entirety. (For more information on this dispute, see Chapter II.)

h. Chemicals

The EU is developing a comprehensive new regulatory regime for all chemicals (known as Registration Evaluation and Authorization of Chemicals) that would impose extensive additional testing and reporting requirements on producers and downstream users of chemicals. The expansive EU proposal could impact virtually all industrial sectors, including the majority of U.S. manufactured goods exported to the EU.

While supportive of the EU's objectives of protecting human health and the environment, the United States continued to stress to the EU throughout 2005 that this draft regulation adopts a particularly complex and burdensome approach, which appears to be neither workable nor cost-effective in its implementation, and could adversely impact innovation and disrupt global trade. Many of the EU's trading partners have expressed similar concerns.

The proposal also appears to depart from ongoing international regulatory cooperation efforts. We will continue to monitor closely revisions to this draft regulation, and remain engaged constructively with the EU to ensure that U.S. interests are protected.

i. Ban on Growth Promoting Hormones in Meat Production

The EU continues to ban the import of U.S. beef obtained from cattle treated with growth-promoting hormones. In 1996 the United States challenged this ban in the WTO and in June 1997, a WTO panel ruled in favor of the United States on the basis that the EU's ban was inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) because the EU failed to provide an adequate scientific risk assessment. This finding was upheld by a WTO Appellate Body in 1998, and in 1999, the WTO authorized U.S. trade retaliation because the EU failed to comply with the WTO rulings.

In September 2003, the EU announced the entry into force of an amendment to its original hormone directive, which recodified the ban on the use of estradiol for growth promotion purposes and extended the provisional bans on the five other growth hormones included in the original EU legislation. With enforcement of this new Directive, the EU argued that it was now in compliance with the earlier WTO ruling.

At present, the United States continues to apply 100 percent duties on $116.8 million of U.S. imports from the EU. In November 2004, the EU requested WTO consultations with the United States on this matter, claiming that U.S. sanctions were no longer justified. The first panel meeting was held in September 2005. The United States maintains that the revised EU measure cannot be considered to implement WTO recommendations and rulings on this matter, and that the U.S. sanctions remain authorized.

j. Poultry Meat

U.S. poultry meat exports to the EU have been banned since April 1, 1997, because U.S. poultry producers currently use washes of low-concentration chlorine as an anti-microbial treatment (AMT) to reduce the level of pathogens in poultry meat production, a practice not permitted by the EU sanitary regime. U.S. concerns with respect to poultry intensified in 2004 as a result of EU enlargement and the application of EU restrictions in new Member States that had previously allowed entry of U.S. meat. In 2004, the United States made significant progress in its work with the EU to address differences between U.S. and EU food safety rules for poultry meat. The Commission audited and approved a number of U.S. poultry plants which demonstrated the use of AMTs and the United States developed an action plan to demonstrate the equivalency of U.S. and EU on-farm manufacturing practices. In 2005, the two sides continued to discuss the final details of a series of steps, including approval by EU Member States of the use of AMTs, aimed at re-opening the EU market to U.S. poultry meat products.

k. Wine

Since the mid-1980s, U.S. wines have been permitted entry to the EU market through temporary exemptions from certain EU wine regulations. One such regulation requires wines imported into the EU to be produced using only certain wine-making practices. Other regulations require extensive certification procedures for imported wines and prohibit the use of wine names and grape varieties as regulated in the United States.

Without derogations from these regulations, many U.S. wines would be immediately barred from entering the EU. U.S. wines that are produced with practices for which there are no EU derogations are already barred. For over six years the United States and the EU negotiated an agreement to address this and other issues.

On September 14, 2005, the United States and the European Community reached an agreement on wine-making practices and labeling of wine, aimed at facilitating bilateral trade in wine valued at $2.8 billion annually. The Agreement provides for acceptance of existing wine-making practices and addresses a number of labeling issues, helping to create marketing certainty for U.S. and EU wine exporters.

The agreement, which will enter into force in early 2006, provides for: (1) recognition of existing current wine-making practices; (2) a consultative process for accepting new wine-making practices; (3) the United States limiting the use of certain "semi-generic" terms in the U.S. market; (4) the EU allowing under specified conditions for the use of certain regulated terms on U.S. wine exported to the EU; (5) recognizing certain names of origin in each other's market; (6) simplifying certification requirements; and (7) defining parameters for optional labeling elements of U.S. wines sold in the EU market. The Agreement does not address the use of "geographical indications," a form of intellectual property. The Agreement also provides for a second phase of negotiations to address other outstanding U.S.-EU wine trade issues.

l. Rice -- Margin of Preference

The EU is the top market for US brown rice exports. US brown rice exports into the EU market are valued at $33 million a year, on average, since 1999. In mid-2003, the EC notified the United States and other WTO Members of its intention to withdraw a key market access concession on rice made during the Uruguay Round. This concession, known as the Margin of Preference (MOP), replaced the EU's pre-1995 variable levy system for rice to provide market access opportunities for rice imports into the EU. On September 1, 2004, the EU withdrew the MOP concession and replaced it with a bound tariff rate of 65 euros/metric ton for brown rice and 175 euros/metric ton for milled rice.

On February 28, 2005, the United States and the European Union reached an agreement ensuring market access for U.S. brown (husked) rice exports to the EU, resolving this trade dispute and preventing the March 1, 2005 withdrawal of U.S. tariff concessions. A key element of the agreement includes an applied tariff adjustment mechanism that will facilitate trade, namely, if EU imports of brown rice, excluding basmati rice, fall below a certain reference level, the applied tariff will automatically be lowered to 30 euros per metric ton. If there is little change in trade, the applied tariff will be set at 42.5 euros per metric ton. The adjustment mechanism also allows the EU tariff to return to the bound rate of 65 euros per metric ton if imports substantially increase. The adjustment mechanism was applied starting on March 1, 2005. Further, the import reference levels will be adjusted in the future to provide for growth. Finally, the agreement contains consultation and transparency provisions that will facilitate administration of the new import regime.

m. EU Directive on Wood Packaging Material (WPM)

In February 2005, the European Union suspended for one year until March 1, 2006, its plan to implement a new Directive on wood packaging material (WPM) that could affect up to $80 billion worth of U.S. agricultural and commercial exports to the EU that are shipped on wooden pallets or in wood packaging materials. The Directive, published by the European Commission on October 5, 2004, would place a debarking requirement, in addition to heat treatment fumigation, on WPM from the United States and other countries.

The EU Directive is more restrictive than the international standard established by the International Plant Protection Convention (IPPC), Guidelines for Regulating Wood Packaging Material in International Trade (IPSM-15). IPPC members, including the EU, approved IPSM-15 to harmonize and safeguard WPM requirements in world trade. IPPC members approved specific treatments and the marking of WPM, but did not support a debarking requirement in the absence of a scientific justification. The IPPC continues to assess emerging scientific studies related to this issue. On January 17, 2006 EU Member States approved a further postponement of its unilateral debarking requirement until December 2008, with a review of the issue scheduled for 2007.

n. EU Enlargement

On May 1, 2004, Estonia, Latvia, Lithuania, Poland, Slovakia, the Czech Republic, Slovenia, Hungary, Cyprus and Malta acceded to the European Union. At that time, the United States entered into negotiations with the European Communities within the framework of GATT provisions relating to the expansion of customs unions. The 10 new members were required to change their tariff schedules to conform to the EU's common external tariff schedule, resulting in increased tariffs on certain imported products. Under General Agreement on Tariffs and Trade 1994 (GATT 1994) Articles XXIV: 6 and XXVIII, the United States is entitled to compensation from the EU to offset some of these changes.

The expansion of EU quotas to account for the addition of 10 new countries and more than 75 million new EU consumers was another key element of the negotiations.

On November 30, 2005, the United States and the European Commission initialed a bilateral enlargement compensation agreement. As part of the agreement, the EU will permanently reduce tariffs on protein concentrates, fish (hake, Alaska Pollack, surimi), chemicals (polyvinyl butyral), aluminum tube, and molybdenuym wire. The EU also will open country-specific tariff rate quotas for U.S. exports of boneless ham, poultry, and corn gluten meal. Finally, the EU will expand existing global tariff rate quotas for beef, poultry, pork, rice, barley, wheat, maize, sugar, fructose, preserved fruits, fruit juices, pasta, chocolate, pet food preparations, live bovine animals and sheep, and various cheeses and vegetables. Final signature of the agreement and implementation of the tariff and quota concessions is expected in early 2006 after approval by the EU Member States.

As part of broader discussions on EU enlargement, the EU had agreed earlier to expand the maximum quantities allowed in licensing applications for imports into the EU of pork. This measure went into force in March 2005.

2. EFTA

The United States continues to broaden our economic engagement with the counties of the European Free Trade Association (EFTA) and explore ways to foster closer U.S.-EFTA trade. During 2005, USTR engaged in technical discussions with Switzerland about a possible free trade agreement. On October 17, 2005, the United States signed two mutual recognition agreements (MRAs) with the EEA EFTA States (i.e., Norway, Iceland, and Liechtenstein) that parallel our MRAs with the European Community -- one covering telecommunications equipment, electro-magnetic compatibility (EMC) and recreational craft; and the other covering marine equipment. These agreements permit approved U.S. laboratories to conduct required conformity assessment procedures (e.g., product tests) for designated products according to EEA EFTA requirements (U.S. requirements in the case of marine equipment), and vice versa. This saves manufacturers the time and expense of additional product testing, lowers prices for consumers, and conserves regulators' resources.

3. Turkey

a. General

Although Turkey's harmonization of its trade and customs regulations with those of the EU generally benefits third country exporters, Turkey maintains high tariff rates on many agricultural and food products to protect domestic producers. Turkey also levies high duties, as well as excise taxes and other domestic charges, on imported alcoholic beverages that increase wholesale prices by more than 200 percent. Turkey does not permit any meat or poultry imports. In November 2005, the U.S. initiated WTO dispute settlement procedures with Turkey on import restrictions with respect to rice. The two parties are currently in consultation.

b. Investment

While Turkey's legal regime for foreign investment is liberal, private sector investment is often hindered, regardless of nationality, by: excessive bureaucracy; political and macroeconomic uncertainty; weaknesses in the judicial system; high tax rates; a weak framework for corporate governance; and frequent, sometimes unclear changes in the legal and regulatory environment.

c. Intellectual Property

Turkey does not have a patent linkage system in place to prevent generic drugs that infringe the Turkish patents of U.S. pharmaceutical companies from receiving marketing approval in Turkey. Turkey instituted a Registration Regulation for protecting confidential test data, but it is not retroactive to January 2000, when Turkey's TRIPS obligations came into effect and has other provisions that may not be consistent with TRIPS requirements. Turkey issued a revised regulation on January 19, 2005 providing a six-year term of data exclusivity protection for confidential pharmaceuticals test data effective January 1, 2005. The regulation contains major loopholes, which the United States is addressing with Turkey. Improving enforcement against copyright piracy and trademark infringement in Turkey also remains an issue.

4. Southeast Europe

a. EU Accession

The United States has been strongly supportive of the integration of Bulgaria and Romania into the EU. As with previous accessions, USTR and other U.S. agencies have been working with Bulgaria and Romania to ensure that the accession process does not adversely affect U.S. commercial interests in the region. These countries, as well as Croatia, have concluded Stabilization and Association Agreements with the EU, which set the stage for their EU membership. These Agreements provide for the reduction to zero of virtually all tariff rates on industrial goods and preferential rates and quotas for many agricultural goods traded between the EU and these countries. Subsequent agricultural agreements (the Zero-Zero Agreements) have further reduced tariffs on the majority of agriculture goods. U.S. goods continue to face generally higher MFN tariff rates in these countries, creating a tariff differential *vis a vis* EU goods.

b. Generalized System of Preferences

Most of the countries in this region participate in the U.S. Generalized System of Preferences (GSP) program, including Serbia and Montenegro, which were granted eligibility in 2005.

As required by the GSP statute, once a country has joined the EU, it loses its GSP eligibility. The GSP statute provides that a country may not receive GSP benefits if it affords preferential treatment to the products of a developed country, other than the United States, that has a significant adverse effect on U.S. commerce. As noted above, the United States has consulted with several countries concerning their granting preferential tariffs to EU exporters compared with U.S. exporters, pursuant to their Europe Agreements with the EU. USTR and the interagency GSP subcommittee are considering several petitions filed by U.S. industry groups requesting that Bulgaria and Romania be removed from the program because of the impact of tariff differentials on U.S. commerce.

c. Intellectual Property Rights

USTR closely monitors WTO Members' compliance with the TRIPS Agreement, works with countries to improve enforcement of their IPR legislation, and counter trends such as increasing copyright piracy and trademark counterfeiting. Piracy and counterfeiting are growing problems in Bulgaria, which was placed on the Special 301 Watch List in 2004. USTR is working to encourage Bulgaria to reestablish strong intellectual property protection, including against optical disc piracy that was in place several years ago. A top USTR priority in 2005 remained protecting the confidential data submitted by pharmaceutical firms to government health authorities to obtain marketing approval.

d. Bilateral Investment Treaties

The United States has Bilateral Investment Treaties (BITs) in force with Albania, Bulgaria, Romania, and Croatia.

5. Russia and the Newly Independent States

The United States has established strong trade and investment links with Russia, including negotiating a bilateral trade agreement and a bilateral investment treaty (BIT). Entry into force for the BIT, however, is pending ratification by Russia and the final exchange of instruments of ratification. Multilaterally, the United States has encouraged Russia's accession to the World Trade Organization (WTO) as an important method of supporting economic reform.

a. Jackson-Vanik Amendment

Russia (as is the case with Ukraine, and seven of the other countries in the region – see below) receives conditional Normal Trade Relations (NTR) tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment. Under the Jackson-Vanik amendment, the President is required to deny NTR tariff treatment to any non-market economy that was not eligible for such treatment in 1974 and that fails to meet the statute's freedom of emigration requirements contained in the legislation. This provision is subject to waiver, if the President determines that such a waiver will substantially promote the legislation's objectives. Alternatively, through semi-annual reports, the President can determine that an affected country is in full compliance with the legislation's emigration requirements. Affected countries must also have a trade agreement with the United States, including certain specified elements, in order to obtain conditional NTR status. The President has determined that Russia is in full compliance with Title IV's freedom of emigration requirements.

If a country is still subject to Jackson-Vanik at the time of its accession to the WTO, the United States has to invoke the "non-application" provisions of the WTO. In such cases, the United States and the other country in effect have no "WTO relations." This situation, among other things, prevents the United States from bringing a WTO dispute based on a country's violation of the WTO or of commitments the country undertook as part of its WTO accession package. The Administration continues to consult with the Congress and interested stakeholders regarding the termination of application of Jackson-Vanik and the provision of Permanent Normal Trade Relations status to Russia. The United States extends Generalized System of Preferences (GSP) benefits to Russia. In response to petitions from the U.S. copyright industry, USTR continued a review in 2005 to determine Russia's eligibility to receive GSP benefits.

b. Intellectual Property Rights (IPR)

USTR is working to ensure that Russia takes appropriate actions to protect intellectual property rights. The United States is reviewing Russia's status as a beneficiary country under the U.S. Generalized System of Preferences (GSP) Program. Russia has also been on the Special 301 Priority Watch List since 1997, and will be subject to an Out-of-Cycle Review in early 2006. IPR is also a key issue of discussion in Russia's WTO accession negotiations.

U.S. industry and Congress are increasingly concerned about the deteriorating IPR situation in Russia. U.S. copyright industries estimate they lose in excess of $1.7 billion annually due to copyright piracy in Russia (films, videos, sound recordings, books and computer software). 2005 saw a continued increase of optical disc production capacity far in excess of domestic demand, with pirated products apparently intended not only for domestic consumption but also for export. Internet piracy also has become a growing concern with the growth of internet access. Russia is home to some of the world's most used internet-based pirate pay download services, such as allofmp3.com, which offers global distribution from its well-protected location inside Russia.

Although Russia has revised a number of IPR laws, including those on the protection of copyrights, trademarks, patents, integrated circuits and plant varieties, Russia continues to not provide national treatment for protection of geographical indications. Russia is required by Article 39.3 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to protect against unfair commercial use undisclosed data submitted to government authorities to obtain marketing approval of pharmaceutical and agricultural chemical products. Russia currently does not provide such protection; the United States is working with the Russian Government in the WTO accession negotiations to amend its Law on Medicines so that Russia complies with the TRIPS Agreement. In late 2005, the Russian Government proposed legislative changes to address these concerns; however, these changes have not yet been considered by the Russian Duma.

Enforcement of IPR remains a pervasive problem. The prosecution and adjudication of intellectual property cases remains sporadic and inadequate; there is a lack of transparency and a failure to impose deterrent penalties. Russia's customs administration also needs to significantly strengthen its enforcement efforts. Russian authorities initiated some enforcement actions in late 2005 which included raids on some optical disc production facilities and investigation of internet sites.

c. Market Access for Poultry, Pork and Beef

The United States was actively engaged with the Russian government throughout 2005 to ensure that U.S. producers of poultry, pork, and beef continue to have access to the Russian market. In January 2003, the Russian Government announced the imposition of a quota for poultry and tariff-rate quotas for pork and beef. An agreement for market access parameters on poultry, pork, and beef was signed in Washington, D.C. on June 15, 2005. There have been a number of persistent concerns about how the agreement has been implemented, namely, the potential for the quota to be used by other countries. Discussions between the two sides on current and future quota allocation continue in the WTO accession context.

d. Sanitary and Phytosanitary Restrictions

Sanitary and phytosanitary restrictions have had a major negative affect on U.S. trade, with products deemed as "sensitive" by Russia being blocked, seemingly without a scientific basis. The ban on U.S. beef and liver based on concerns about bovine spongiform encephalopathy (BSE) is approaching its third year. There also are continuing concerns about Russian inspections, of U.S poultry plants, restrictions on U.S. pork exports due to trichinae issues, regulations related to biotechnology, and reporting requirements for avian influenza. U.S. horse's genetic products (such as bovine semen), dairy, eggs, and other products remain affected by a lack of agreed certification between the United States and Russia.

In addition to these specific issues, in the context of Russia's WTO accession, the two sides are discussing Russia's adoption of international standards, guidelines and recommendations set by internationally recognized bodies such as Codex Alimentarius, the Office of International Epizootics (OIE), and the International Plant Protection Convention (IPPC).

e. Product Standards, Certification and Licensing

U.S. companies still cite product certification requirements as a principal obstacle to U.S. trade and investment in Russia. In the context of Russia's WTO accession negotiations, USTR continues to urge Russia to bring its product regulations and certification requirements into compliance with international practice. In many sectors, type certification or self-certification by manufacturers is currently not possible. The Russian government is now attempting to put in place the necessary legal and administrative framework to establish transparent procedures for developing and applying standards, technical regulations and conformity assessment procedures in Russia to better comply with WTO rules. In addition, import and activity licenses to produce or distribute in Russia are also necessary to import products such as alcoholic beverages, pharmaceuticals, and products containing encryption technology.

6. Ukraine

The United States has established strong trade and investment links with Ukraine, including negotiating a bilateral trade relations agreement and a bilateral investment treaty (BIT). Multilaterally, the United States has encouraged Ukraine's accession to the World Trade Organization (WTO) as an important method of supporting economic reform.

The U.S.-Ukrainian BIT took effect on November 16, 1996. The BIT guarantees U.S. investors the better of national and MFN treatment, the right to make financial transfers freely and without delay, international legal standards for expropriation and compensation and access to international arbitration. There are a number of longstanding investment disputes faced by several U.S. companies. These disputes mainly date from the early 1990s and the initial opening of the Ukrainian economy to foreign investors. In most cases, however, there has been little progress toward resolution under subsequent Ukrainian governments.

a. Jackson-Vanik Amendment

Ukraine receives conditional Normal Trade Relations (NTR) tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment. (See above description Jackson-Vanik in the Russia section). On November 18, 2005, the Senate passed by unanimous consent, S.632, legislation to terminate the application of Jackson-Vanik Amendment to Ukraine.

As of the end of 2005, the House of Representatives had not voted on a similar bill to terminate the application of Jackson-Vanik to Ukraine. The administration continues to consult with congress regarding termination of application of Jackson-Vanik and the provision of Permanent Normal Trade Relations status to Ukraine.

b. Intellectual Property Rights

Ukraine was the only country named a Priority Foreign Country in the 2002 to 2005 Special 301 reviews conducted by USTR based on widespread piracy of copyrighted goods such as CDs and DVDs. The United States withdrew Ukraine's benefits under the Generalized System of Preferences (GSP) program in August 2001 and imposed $75 million worth of sanctions on Ukrainian imports on January 23, 2002. These sanctions, which affected a number of Ukrainian products, including metal, footwear, and chemicals, were lifted on August 30, 2005 after the Ukrainian Government secured passage of important amendments to the Laser-Readable Disk Law and other laws, which went into effect on August 2, 2005. The United States concluded a Special 301 Out-of-Cycle Review (OCR) of Ukraine in January 2006.

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

7. Central Asia and the Caucasus

The United States continues to actively support political and economic reforms in Central Asia and the Caucasus, which includes the former Soviet countries of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

The United States has been striving to construct a framework for the development of strong trade and investment links with this region. This approach has been pursued both bilaterally and multilaterally. Bilaterally, the United States has negotiated trade agreements to extend Normal Trade Relations (formerly referred to as "most favored nation" or "MFN") tariff treatment to these countries and to enhance intellectual property rights protection. The United States also has extended GSP duty-free benefits to certain exports from eligible beneficiary developing countries and has negotiated bilateral investment treaties to guarantee compensation for expropriation, transfers in convertible currency, and the use of appropriate dispute settlement procedures. Multilaterally, the United States has encouraged accession to the WTO as an important method of supporting economic reform. Now that much of this framework is in place, USTR and its interagency colleagues are working to ensure that these countries satisfy their bilateral and multilateral trade obligations.

In 2005, the United States signed a multi-party Trade and Investment Framework Agreement (TIFA) with five Central Asia countries (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan). This Agreement provides a regional forum for discussion of trade and investment with a view to improving the regional investment climate and liberalizing and increasing trade between the United States and the region. The TIFA Council held its first meeting in Washington, DC, in 2005.

The United States has some form of bilateral investment agreement with every country in the region. The United States currently has BITs in force with Armenia, Azerbaijan, Georgia, Kazakhstan, and Kyrgyzstan, and has signed a BIT with Uzbekistan, which has not yet entered into force.

a. Jackson-Vanik Amendment

Several countries in Central Asia and the Caucasus receive conditional NTR tariff treatment pursuant to the provisions of Title IV of the Trade Act of 1974, also known as the Jackson-Vanik amendment (see description above in Russia section of Jackson-Vanik). The President has determined that all the republics of Central Asia and the Caucasus with the exception of Turkmenistan are in full compliance with Title IV's freedom of emigration requirements. Turkmenistan receives NTR tariff treatment under an annual Presidential waiver. Turkmenistan became subject to the annual waiver in 2003, following the re-imposition of an exit visa requirement.

In 2000, pursuant to specific legislation, the President terminated application of Title IV to Kyrgyzstan and Georgia. These countries now receive permanent normal trade relations (PNTR) treatment. In 2004, Congress passed the Miscellaneous Trade and Technical Corrections Act of 2004 which authorized the President to terminate application of Jackson-Vanik to Armenia. On January 7, 2005, the President signed a proclamation terminating application of Jackson-Vanik to Armenia and granting PNTR tariff treatment to products of Armenia. Based on the President's proclamation granting products from Armenia PNTR treatment, the United States and Armenia can apply the WTO between them and have recourse to WTO dispute settlement procedures.
The Administration continues to consult with the Congress and interested stakeholders with a view to removing other countries in the region that comply fully with the Jackson-Vanik amendment's freedom of emigration provisions from the coverage of Title IV's provisions.

b. Intellectual Property Rights (IPR)

Since the United States has concluded bilateral agreements covering IPR protection throughout the region, USTR works to ensure compliance by these countries with their IPR obligations. In 2000, the transitional period granted developing countries and formerly centrally planned economies for compliance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) expired. Accordingly, USTR has conducted a close examination of compliance of WTO Members in the region with the TRIPS Agreement. The United States has cooperated with, and provided technical assistance to, the countries in the region to help improve the level of IPR protection. Copyright and trademark piracy has been a widespread and serious problem throughout the region. Customs and law enforcement authorities in the region are making slow progress in upgrading these countries' enforcement efforts, but continued close monitoring and technical assistance are still warranted.

c. Generalized System of Preferences (GSP)

Armenia, Georgia, Kazakhstan, Kyrgyzstan, and Uzbekistan participate in the GSP program. In 2004, Azerbaijan submitted an application for designation as a beneficiary developing country under the GSP program which is under consideration. Tajikistan and Turkmenistan have not yet applied to be designated as eligible beneficiaries in the GSP program. USTR also conducts annual reviews of country practices, as required by statute and in response to petitions received from interested parties, to determine beneficiaries' continued eligibility to receive GSP benefits.

In 2003, due to improvements made to Armenia's IPR regime, the U.S. Government closed the review of the IPR industry's petition with respect to Armenia. Country practice petitions have been accepted regarding concerns about the IPR regimes of Kazakhstan and Uzbekistan. Review of these petitions, including bilateral consultations, is continuing.

8. WTO Accessions

Four countries in the region (Kyrgyzstan, Georgia, Moldova and Armenia) are members of the World Trade Organization (WTO). WTO accession working parties have been established for an additional seven countries (the Russian Federation, Ukraine, Azerbaijan, Belarus, Kazakhstan, Tajikistan and Uzbekistan). Turkmenistan has not yet applied for observer status or membership in the WTO. The United States supports accession to the WTO on commercial terms and on the basis of an acceding country's implementation of WTO provisions immediately upon accession. The United States has provided technical assistance, in the form of short- and long-term advisors, to many of the countries in the region in support of their bids for WTO accession. Russia is in the process of negotiating terms of accession. By the end of 2005, the Government of Russia had met over 30 times with WTO members in formal and informal Working Party meetings. Russia tabled its initial goods and services market access offers in February 1998 and October 1999, respectively. Russia has subsequently revised these offers and negotiations with Working Party members are active and ongoing. As of the end of 2005, Russia reported concluding bilateral market access and services negotiations with most WTO members. Among the remaining countries still negotiating bilateral deals with Russia are: the United States, Switzerland, Columbia, Australia, India, and Georgia.

Ukraine is also in the process of negotiating terms of accession. Negotiations with Working Party members are active and ongoing. As of the end of 2005, Ukraine reported concluding bilateral market access and services negotiations with most WTO members. The remaining countries still negotiating bilateral deals with Ukraine at the end of 2005 include: Australia, Columbia, Dominican Republic, Egypt, Kyrgystan, Panama, Chinese Taipei, and the United States. Kazakhstan submitted its application for WTO membership on January 29, 1996 and the fact-finding phase of the accession process was completed in 2003. Kazakhstan's Working Party met most recently in June 2005 to discuss the draft Working Party Report circulated in May 2005. Despite this progress, Kazakhstan has failed to reach agreement on market access with a number of interested WTO Members, including the United States, notwithstanding progress in 2005 with several other WTO Members, including China, Pakistan, Turkey and the Republic of Korea. In the area of WTO rules, additional legislative changes to eliminate WTO-inconsistent practices and fully implement WTO provisions will be necessary in several sectors, including subsidies based on use of local materials, customs practices, SPS, TBT, and taxation.

E. Mediterranean/Middle East

Overview

Strong trade relations with the countries of Northern Africa and the Middle East can help advance important U.S. commercial and foreign policy interests. The events of September 11, 2001 highlighted the importance of supporting peace and stability in the region by fostering economic development. The Free Trade Agreements (FTAs) in force with Israel, Jordan and Morocco, the FTAs concluded with Bahrain and Oman, and the ongoing FTA negotiations with the United Arab Emirates, together with the Trade and Investment Framework Agreements (TIFAs) established with most countries in the region, provide the context for our bilateral trade policy discussions with these countries, which are aimed at increasing U.S. exports to the region and assisting in the development of intra-regional trade.

1. Egypt

Momentum continued to grow in several areas of the United States-Egypt trade relationship in 2005. The ministerial economic team appointed to the Egyptian cabinet in July 2004 continued to implement significant economic reforms long urged by the United States, including in such areas as privatization, customs administration, banking and tax reform. President Mubarak signaled continuing support for the economic policies of Prime Minister Nazif and his ministerial economic team with their reappointment in the December 2005 cabinet reshuffle. The United States and Egypt engaged intensively through the process established by our Trade and Investment Framework Agreement (TIFA), including meetings in Cairo in February 2005 and in Washington in November 2005.

Among the steps taken under the TIFA was the establishment of 14 informal working groups that engaged in an extensive series of discussions aimed at improving each country's understanding of the other's trade regime and identifying specific measures to strengthen bilateral trade ties. Egypt cooperated with Israel to successfully launch the Qualifying Industrial Zones (QIZs) designated in Egypt by USTR in December 2004. The QIZs are proving effective in fostering expanded economic and trade ties between the two countries. In response to a request received from Egypt and Israel, the USTR designated in November 2005 a new Egyptian QIZ and expanded two existing zones. The United States and Egypt also cooperated in the multilateral sphere on issues related to advancing the DDA, including efforts to assure a positive outcome to the December 2005 Hong Kong WTO ministerial meeting.

Despite joint efforts to address issues affecting U.S. companies, Egypt's intellectual property regime remained an area of concern for the United States in 2005. In April 2005 Egypt was raised to the Special 301 Priority Watch List due to marketing approvals granted for locally produced copies of patented U.S. pharmaceutical products, as well as deficiencies in Egypts copyright enforcement regime, judicial system and trademark enforcement. These issues persisted through 2005, particularly with respect to Egyptian government approval of unauthorized copies of U.S. pharmaceuticals, one instance of which occurred in December 2005. Intellectual property protection is a critical component of U.S. Free Trade Agreements and improvements in Egypts intellectual property regime will be an important part of Egyptian efforts to lay the basis for any future agreement with the United States.

2. Israel

The United States' 1985 FTA with Israel was its first ever, and the two countries enjoy a robust bilateral trade relationship. The United States and Israel are also cooperating through QIZs to strengthen regional economic integration by expanding trade ties between Israel, Egypt and Jordan.

However, while the United States and Israel continue efforts to further strengthen their trade relationship, the United States remains concerned by longstanding market access issues. Lack of adequate intellectual property rights protection in Israel remains a key concern. Legislation passed by Israel in 2005 on the protection against unfair commercial use of confidential data submitted for marketing approval by U.S. and other foreign firms fell significantly short of OECD-level protections and the standards expected of an FTA partner of the United States. Accordingly, Israel was placed on the 2005 Special 301 Priority Watch List (PWL). The PWL listing also reflected U.S. concerns regarding Israeli legislation that limits the availability of patent extensions to compensate for administrative delays, a key issue for U.S. pharmaceutical firms. Israel passed this measure into law in December 2005, further compounding U.S. government and business worries regarding its intellectual property regime.

The United States will continue to work with Israel to address intellectual property concerns, as well as issues in other areas such as government procurement and standards.

Free Trade Agreements

The FTAs with Morocco, Bahrain and Oman, and the ongoing FTA negotiations with the United Arab Emirates, which are discussed earlier in this chapter (Section A), will support the significant economic and political reforms underway in both countries, and create improved commercial and market opportunities for U.S. exports.

Trade and Investment Framework Agreements

The United States has concluded Trade and Investment Framework Agreements (TIFAs) with Algeria, Egypt, Iraq, Kuwait, Qatar, Tunisia, Saudi Arabia and Yemen. Each TIFA establishes a bilateral Trade and Investment Council that enables representatives to meet directly with their counterparts regularly to discuss specific trade and investment matters and to negotiate the removal of impediments and barriers to trade and investment.

3. WTO Accession

Saudi Arabia completed its WTO accession negotiations and acceded to the WTO in December 2005. Negotiations on the accession to the WTO of Algeria, Lebanon, and Yemen continued in 2005. The United States supports accession to the WTO based on a new Members implementation of WTO provisions immediately upon accession and of a new Members commercially meaningful market access commitments for U.S. goods, services, and agricultural products.

4. Qualifying Industrial Zones

a. Egypt

Qualifying Industrial Zones (QIZs) are established pursuant to legislation passed by the Congress in October 1996, authorizing the President to proclaim elimination of duties on articles produced in the West Bank, Gaza Strip, and qualifying industrial zones in Jordan and Egypt. The President delegated the authority to designate QIZs to the USTR. Until December 2004, all QIZs had been established in Jordan. 2004 saw the fulfillment of the potential for the QIZ initiative to include Egypt.

In December 2004, USTR designated three QIZs in Egypt: the Greater Cairo QIZ, the Alexandria QIZ and the Suez Canal Zone QIZ. In November 2005, at the request of Egypt and Israel, USTR Rob Portman approved a new zone -- the Central Delta QIZ -- as well as the expansion of the already designated Greater Cairo and Suez Canal QIZs.

The USTRs decision to approve Egypts and Israels QIZ request reflects continuing U.S. support for expanded economic and political ties between the two countries. In addition, the QIZs are expected to further Egypts efforts to liberalize its economy and integrate economically with its regional neighbors and in the global market.

b. Jordan

Qualifying Industrial Zones (QIZs) continue to be a bright spot in Jordanian economic performance. Thirteen QIZs have been established in Jordan since 1998. The duty free benefits provided by QIZs remain particularly important for Jordanian products for which duty free treatment has not yet been phased-in under the United States-Jordan FTA. QIZs played an important role in helping to boost Jordans exports to the United States from $16 million in 1998 to $1.1 billion in 2004. Peak QIZ employment is forecast at 40,000 to 45,000. Investment in the establishment of QIZs is approximately $85 million to $100 million, which is expected to grow to $180 million to $200 million when all projects are completed.

In 2004, USTR designated two QIZs in Jordan, the Resources Company for Development and Investment Zone (RCDI) and Al Hallabat Industrial Park. The Zarqa Industrial Zone was designated in 2001, and five QIZs were designated in 2000: The Investors and Eastern Arab for Industrial and Real Estate Investments Company Ltd. (Mushatta International Complex), El Zay Ready Wear Manufacturing Company Duty-Free Area, Al Qastal Industrial Zone, Aqaba Industrial Estate, and the Industry and Information Technology Park Company (Jordan CyberCity Company). Four QIZs were designated in 1999, Al-Tajamouat Industrial City, Ad-Dulayl Industrial Park, Al-Kerak Industrial Estate, and Gateway Projects Industrial Zone. The first QIZ in Jordan, Irbid, opened in 1998.

The steady growth of QIZs illustrates the economic potential of regional economic integration. In addition to the competitive benefit of duty-free status for QIZ exports to the United States, QIZs increasingly offer participating companies the advantages of modern infrastructure and strong export expertise and linkages. This evolution should serve to increase the economic benefits generated by QIZs.

Intellectual Property Rights

Protection of intellectual property rights remains a priority in the Middle East region. Egypt, Israel, Kuwait and Lebanon are on the Special 301 Priority Watch List, while Saudi Arabia is on the Watch List.

F. Southeast Asia and the Pacific

1. Australia

A discussion of U.S. – Australia relations during 2005 can be found in Section A, describing the U.S. – Australia FTA.

2. New Zealand

United States and New Zealand officials maintained close contact during 2005 on a range of bilateral trade issues and worked to develop common approaches in regional and multilateral trade fora. The United States continued to raise concerns over New Zealand’s biotechnology food labeling requirements. With respect to improving protection of intellectual property rights, the New Zealand government passed legislation in 2003 banning parallel imports of newly released films. In 2005, the United States proposed that longstanding concerns related to parallel imports of other copyrighted material, such as software and sound recordings on optical media, be resolved. The United States remains concerned about trademark protection, format shifting of digital media, and pharmaceutical patent protection. The United States has urged New Zealand to accede to the World Intellectual Property Organization (WIPO) treaties on Copyright and Performances and Phonograms and establish a more complete regime governing internet service provider (ISP) responsibility to remove infringing material from the Internet.

U.S. manufacturers continue to assert that the proposed joint New Zealand-Australian regulatory regime could impede the price competitiveness of many U.S. medical devices and complementary goods in the New Zealand market. The United States also remains concerned that New Zealand's pharmaceutical sector policies do not appropriately value innovation and restrict the ability of pharmaceutical companies to sell their products in New Zealand by limiting availability and setting prices on drugs approved for government reimbursement.

In 2005, U.S. officials continued to discuss with New Zealand how it might administer its sanitary and phytosanitary measures (SPS) to permit the importation of additional U.S. agricultural products including beef and live cattle pork, poultry and avocados. United States officials have also urged New Zealand to take steps to increase competition in its telecommunications market. The United States will continue working with New Zealand under our Trade Investment Framework Agreement to address these and other bilateral trade issues. We will also work with the New Zealand government in APEC and the WTO to advance our common trade interests.

3. The Association of Southeast Asian Nations (ASEAN)

a. Indonesia

i. General

The United States has worked throughout 2005 to enhance its Trade and Investment Framework Agreement (TIFA) dialogue with Indonesia, seeking to help strengthen Indonesia’s economy and encourage liberalization and other economic reforms that would generate additional trade and foreign investment. The Administration of newly-elected President Susilo Bambang Yudhoyono in 2005 began a review of Indonesia’s trade policy regime and to implement reforms to improve the nation’s trade and investment climate. The United States will closely monitor the results of Indonesia’s trade policy review and the impact of economic reforms that are implemented. Senior U.S. and Indonesian trade officials, including at the minister level, met several times in 2005 to discuss the range of outstanding issues affecting the U.S.-Indonesian economic relationship and other issues covered under our bilateral TIFA. They discussed the need to address unresolved bilateral issues and exchange views on developments in regional and multilateral fora such as APEC and the WTO, as well as to agree on steps to create conditions that will allow the consideration of a possible future free trade agreement. This work is consistent with the objectives outlined in the Enterprise for ASEAN Initiative. Indonesia is currently our 30th largest goods trading partner with $13.5 billion in total two-way goods trade during 2004.

ii. Intellectual Property Rights (IPR)

The United States has continued to urge Indonesia to take steps to strengthen its IPR regime. USTR placed Indonesia on the Special 301 Priority Watch List in 2005 due to concerns over continued optical media piracy and weaknesses in Indonesia’s IPR enforcement efforts. In recognition of the fact that Indonesia had taken some noteworthy steps to strengthen its IPR regime, the 2005 Special 301 Report also included an Out-of-Cycle Review that permitted USTR to work with Indonesia on development of a May 2005 action plan to improve IPR enforcement.

However, significant problems related to IPR piracy remain. Overall, protection of intellectual property rights in Indonesia remains relatively weak and U.S. industries continue to report the presence of illegal optical media production lines. U.S. industries also have raised serious concerns about counterfeiting and trademark violations of a wide range of products in Indonesia.

While a limited number of raids against retail outlets for pirated optical media products have occurred, long delays remain in prosecuting intellectual property cases. Sentences continue to be light and insufficient to deter intellectual property piracy, further undermining the criminal penalties laid out in Indonesia's copyright law.

The United States continued to encourage Indonesia to implement the specific recommendations made in both a May 2002 IPR action plan and a May 2005 action plan, including taking steps to improve inter-ministerial coordination on efforts to combat IPR piracy and to strengthen the legal framework and enforcement mechanisms to protect IPR.

In November 2003, the Indonesian government submitted draft regulations governing optical media production for Presidential approval. In October 2004, these "Optical Disc Regulations" were signed into law by then President Megawati Sukarnoputri and came into force in April 2005. The United States has encouraged Indonesia to fully and actively enforce these Optical Disc Regulations.

iii. Poultry Imports

Appropriate officials in the United States and Indonesia continued to discuss steps that can be taken to ensure that U.S. poultry exports meet Indonesian requirements for Halal certification. Indonesia is maintaining its ban on imports of U.S. poultry parts pending agreement on Halal certification. The U.S. Government continued to raise this issue with the Indonesian government in 2005 and will work with Indonesia to eliminate the ban.

iv. Textiles

In 2005, the United States raised concerns about Indonesia's 2002 Textiles Decree, which effectively precludes the importation of certain textiles into Indonesia other than directly by local manufacturers for use as inputs into other products. The United States also urged Indonesia to work with its domestic textile producers to help them adjust to competition under the post textile quota regime, as the WTO Agreement on Textiles and Clothing expired on December 31, 2004.

b. Malaysia

i. Overview

The United States and Malaysia signed a Trade and Investment Framework Agreement on May 10, 2004. Three meetings have been held under the TIFA since then, most recently in October 2005 in Malaysia. The two countries have held constructive discussions covering a range of issues, including improving market access in the financial services, automotive, and agriculture sectors, strengthening the protection and enforcement of intellectual property rights, upgrading customs procedures, and addressing investment concerns. In addition, Malaysia and the United States discussed cooperation and trade capacity building projects that will help further both countries' interests in enhancing our trade relationship, including areas such as customs, IPR enforcement and sanitary and phytosanitary requirements. The meetings also provided the opportunity to coordinate on APEC and WTO issues. Finally, the United States and Malaysia discussed the President's Enterprise for ASEAN Initiative and the possibility of a U.S.-Malaysia FTA.

ii. Financial Services

Malaysia pledged in 2001 to fully open its financial sector by 2007 under the "Financial Market Masterplan." While some liberalization has been achieved, access to Malaysia's financial services sector remains highly restricted. In 2005, we raised serious concerns about this issue and its implications for Malaysia's growth and development, and urged Malaysia to accelerate its plans for liberalization.

iii. Automotive

The United States raised concerns with the Malaysian Government over Malaysia's high tariffs, excise taxes and approved import permit requirement (effectively an import licensing system). In the automotive sector, in October 2005 the Malaysian Government announced a new National Automotive Policy Framework, which lowers import duties and excise taxes. We will continue to work with Malaysia to eliminate the remaining barriers in the automotive sector.

iv. Intellectual Property Rights (IPR)

Malaysia has a strong public commitment to IPR enforcement, including working with the United States on the APEC IPR Initiative. It has taken steps to strengthen its IPR regime over the past year. Malaysia announced in October 2005 that it will establish a specialized court dedicated exclusively to intellectual property cases, a move the U.S. Government recommended. It also has increased enforcement in a number of areas. Despite this progress, Malaysia continues to have high piracy rates for optical media (CDs and DVDs) and is a substantial exporter of counterfeit and pirated products. The United States also raised concerns about Malaysia's requirement that pharmaceuticals carry a hologram security sticker in 2005. While we support Malaysia's goal of combating pharmaceutical counterfeiting, this program may in fact make it easier for counterfeiters to market pirated products as genuine. The U.S. Government will work with Malaysia to encourage it to adopt best international practices to combat IPR violations and to further strengthen its ability to prosecute IPR crimes.

c. Philippines

i. Overview

The United States furthered its trade and investment dialogue with the Philippines in 2005, holding several rounds of consultations under the bilateral TIFA. The two sides have used these meetings to make progress in addressing outstanding concerns. In addition, the United States used these meetings to urge the Philippines to resist taking any steps that might run counter to continued progress toward liberalizing its trade and investment regime. The United States also asked the Philippines to reaffirm its support for global trade liberalization as outlined in the WTO Doha Development Agenda. President Arroyo announced in June 2004 a "10 Point Agenda" to revitalize the Philippine economy. That agenda sets ambitious goals, such as the creation of six million jobs in six years, balancing the budget, and large investments in infrastructure. The United States will continue to consult with the Philippines on its plans to prioritize and meet the targets in the Agenda. The Philippines is currently our 26th largest goods trading partner with $16.2 billion in total two-way goods trade during 2004.

ii. Intellectual Property Rights (IPR)

The Philippines made some progress in its efforts to strengthen IPR protection in 2005. To support the Philippines' efforts to strengthen its IPR regime, the United States in August 2002 provided recommendations to the government of the Philippines in the form of an IPR Action Plan that included specific steps on judicial, legislative, and enforcement issues. USTR placed the Philippines on the Special 301 Priority Watch List in 2005 due to concerns over, among other things, continued high levels of optical media piracy and weaknesses in IPR enforcement and prosecutions.

The Philippines had taken a number of steps in 2004 and 2005 to strengthen IPR enforcement, leading USTR to also include an out-of-cycle review as part of its 2005 Special 301 findings. The review permitted us to work with the Philippines on development of a May 2005 action plan to improve IPR enforcement.

In 2004, the Philippines passed the Optical Media Act, which was a top U.S. priority. This law creates a regulatory regime for optical media manufacturing equipment in order to curb rampant pirate production of optical media. The law also provides a legal basis for enforcement activities against IP-infringing optical media, such as pirated music, software and film CDs.

The Philippine Intellectual Property Office (IPO) in 2005 worked to upgrade inter-agency coordination and cooperation on IPR enforcement. The Optical Media Board (OMB) significantly increased the number of raids it carried out against IP pirates in 2005 compared to 2004. The OMB has specifically targeted vendors in shopping malls and worked to encourage landlords to agree to include a clause in their leases that makes sale of IP-infringing goods by tenants the basis for eviction. Nonetheless, pirated optical media continues to be widely available across the Philippines, indicating that additional enforcement action remains necessary. The Philippines' Bureau of Customs (BOC) passed regulations aimed at improved enforcement against trade in pirated products and, in 2003, BOC established an IP enforcement unit. Unfortunately, the IP enforcement unit remains under-staffed, perhaps due to the fact that it is not funded by its own BOC budget line item.

Other concerns remain. The Philippines has yet to pass copyright amendments, pending in its Congress as of January 2006, which would update its domestic law to address electronic commerce piracy. In addition, while the increased number of raids carried out by the OMB are commendable, the Philippines has been slow to prosecute IPR offenders and reluctant to impose either criminal or civil penalties as permitted under its domestic law that would act as a deterrent. The IPO in 2005 proposed the creation of three Special IP Courts, but these Courts have not yet been established, and many details about the procedural rules under which these courts would operate have yet to be set. Consequently, the continued lack of effective IPR enforcement and prosecutions in the Philippines results in tens of millions of dollars in losses in intellectual property for U.S. industry every year.

iii. Telecommunications

The U.S. and Philippine governments successfully worked together to begin reopening U.S. access to the Philippines telecommunications networks. In February 2003, Philippines telecommunications companies blocked access to their networks to incoming call traffic from certain U.S. and other foreign telecommunications companies that were unwilling to agree to tariff increases the Philippine companies wanted to impose. Senior U.S. government officials, including from USTR and the FCC, raised concerns over this action with Philippine officials. In November 2003, some telecommunications connections between the two countries were restored and ongoing negotiations resulted in a complete restoration of telecommunications links in 2004. No significant changes to the Philippine regime governing telecommunications took place in 2005.

iv. Customs

The Philippines has made progress over the last several years toward bringing its customs regime into compliance with its WTO obligations, but the United States has continued to have concerns about inconsistent application of customs rules and procedures, undue and costly processing delays, and the role of the Philippine private sector in the valuation process.
The Philippines has outlined steps it has taken and plans to take to strengthen the enforcement and consistency of its customs rules and improve enforcement against IPR piracy at the border. The United States will continue to closely monitor this issue.

v. Sanitary and Phytosanitary (SPS) Issues

Throughout 2005, the United States requested that the Philippines reform the manner in which it administers its Veterinary Quarantine Clearance (VQC) certificate program. Currently, VQCs are issued in fixed tonnage amounts that do not necessarily match the tonnage of a given shipment of U.S. meat and poultry exports the Philippines. VQCs issued with fixed tonnage assigned to them force importers to waste VQC allotments, because excess VQC tonnage can not be reclaimed in any way. This practice impedes the flow of U.S. meat and poultry exports that otherwise meet Philippine VQC standards. We will continue to press the Philippines to permit VQCs to be issued to match the tonnage of incoming shipments or for importers to be able to "carry over" any un-used tonnage to subsequent shipments of U.S. meat and poultry.

d. Singapore

The United States and Singapore negotiated a bilateral Free Trade Agreement (FTA), which was signed in May 2003 and entered into force on January 1, 2004. United States-Singapore trade issues, including FTA implementation issues, are discussed in the section on bilateral and regional negotiations (see Chapter III, section A.4).

The FTA significantly liberalizes trade in goods and services, and provides strong protection for intellectual property and for U.S. investors. Trade grew substantially during the first two years of the FTA. On an annualized basis, U.S. exports to Singapore grew by more than ten percent, while U.S. imports from Singapore grew by more than four percent.

e. Thailand

The United States and Thailand initiated negotiation of an FTA in mid-2004. The United States is using these negotiations to secure improved access to the Thai market for U.S. products and to address a variety of long-standing issues, with respect to intellectual property rights and customs procedures. A discussion of U.S. – Thai engagement during 2005 can be found in Section A of this Chapter.

f. Cambodia

Cambodia became the 148th member of the WTO on October 13, 2004. Cambodia was approved by the WTO for membership in September 2003, at the Cancun Ministerial Meeting, but did not complete its domestic ratification procedures until the following year.

The United States and Cambodia began negotiation of a TIFA agreement shortly after Cambodia joined the WTO. These negotiations should be completed in the near future. Cambodia has embarked on a process of reform, both to support its domestic economy and to implement its WTO obligations.

The TIFA will provide a formal mechanism for the United States and Cambodia to engage on economic and trade issues of mutual interest, including Cambodia's reform program and implementation of its WTO commitments.

g. Vietnam

i. Overview

On July 13, 2000, the United States and Vietnam signed an historic bilateral trade agreement (BTA), concluding a four-year negotiation to normalize trade relations. Upon its entry into force on December 10, 2001, the United States extended NTR treatment to products of Vietnam. Under the BTA, Vietnam committed to make sweeping economic reforms, which created trade and investment opportunities for both U.S. and Vietnamese companies, and has been the foundation of United States – Vietnam trade and economic relations. Vietnam remains subject to the Jackson-Vanik provisions of the Trade Act of 1974, however, which link continued eligibility for NTR treatment to sufficient progress on the issue of free emigration. Each year since 1998, the President has granted a waiver under Jackson-Vanik for Vietnam, thus clearing the way for Vietnam to receive annually renewed (as opposed to permanent) NTR treatment from the United States.

The Joint Committee established by the BTA has met annually in formal session since implementation of the agreement, most recently in June 2005. The primary purpose of the Joint Committee is to review implementation of the provisions of the BTA. While applauding Vietnam's commitment to economic reform, the United States underscored the importance of Vietnam moving quickly to meet the timetables for implementation contained in the BTA.

The two countries also discuss Vietnam's persuit of WTO membership and operation of the United States – Vietnam textile agreement. Further information on WTO accession negotiations is contained in Chapter II of this report. The next meeting of the Joint Committee will be held in the first half of 2006, at which point the first four years of implementation of the BTA will be reviewed.

ii. Agricultural Issues - Poultry

In November 2005, Vietnam imposed an immediate ban on imports of all unprocessed poultry products in an effort to control the spread of avian influenza (AI). The United States emphasized to Vietnam that international guidelines provide for imports to be banned only from infected countries and that WTO rules require that a scientific basis exist for such restrictions. On January 11, 2006, Vietnam effectively lifted the ban on imports of poultry and poultry products from AI free countries.

h. Laos

The U.S. - Laos Agreement on Trade Relations (BTA) came into effect on February 4, 2005, after domestic ratification procedures were completed in both countries. The BTA normalized trade relations between the two countries. Under the BTA, the United States extended normal trade relations status (NTR) to products of Laos. Laos agreed to implement a variety of reforms to its trade regime, including NTR and national treatment for products of the United States, transparency in rule making, establishment of a regime to protect intellectual property rights, and implementation of WTO-level customs regulations and procedures.

Laos' small economy does not yet support a large retail market in pirated or counterfeit goods, but small outlets are spreading. While enforcement is weak, some elements of the government of Laos are interested in creating strong domestic intellectual property legislation, particularly given Laos' desire to protect the intellectual property created through Lao handicrafts and native music.

The United States is working closely with Laos to implement the terms of the BTA.

4. Republic of Korea

a. Economic and Trade Overview

The Republic of Korea is a significant trading partner of the United States. Korea is the 7th largest export market for U.S. goods, 5th largest export market for U.S. agriculture products, and 7th largest trading partner in terms of two-way goods trade. Further, the United States is the largest foreign investor in the Korean market. Economic growth and trade liberalization in Korea have created many opportunities for U.S. exporters and investors.

During 2005, the United States and Korea made important progress in resolving bilateral trade issues in several key sectors, including strengthening Korea's intellectual property protection regime; lifting an import ban on U.S. poultry; ratifying a WTO rice agreement that will double the amount of rice Korea imports over the next ten years from WTO members, including from U.S. suppliers; resolving a number of automotive standards issues, including those related to average fuel economy, automobile exhaust emissions levels, and license plate size; and improving transparency in Korea's procedures for pricing, reimbursing, and approving innovative pharmaceuticals. Furthermore, the United States in 2005 has worked closely with the Roh Administration to ensure that Korea's efforts at domestic regulatory reform address the priority concerns of U.S. exporters and investors, including enhancing regulatory transparency.

The United States and Korea meet regularly to consult on bilateral trade issues. Meetings held on a quarterly basis serve as the primary forum for discussing these issues; those meetings are augmented by a broad range of senior-level policy discussions. With important progress having been made in 2005 to resolve key bilateral trade concerns, the United States and Korea have intensified discussions on what further steps are warranted to deepen trade relations between our two countries, including the possibility of launching a bilateral Free Trade Agreement (FTA). As a result, the United States and Korean governments convened three meetings during the year to review the objectives and provisions of each country's recent FTAs with other countries.

In 2005, Korea played a constructive role in the World Trade Organization (WTO) Doha Development Agenda (DDA) negotiations, particularly with respect to the non-agriculture market access, services, and trade facilitation discussions. As the host country of APEC in 2005, Korea also played a leadership role in generating APEC-wide support for an ambitious result in the DDA negotiations. Korea also used its APEC chairmanship role to promote trade and investment liberalization in the Asia-Pacific region. In particular, Korea joined the United States and Japan in co-sponsoring a comprehensive anti-counterfeiting and piracy initiative that resulted in model guidelines to reduce trade in counterfeit and pirated goods, to reduce on-line piracy, and to prevent the sale of counterfeit and pirated goods over the Internet (see Chapter III, section B.5 for further details).

b. Regulatory Reform

U.S. exporters and investors seeking to do business in Korea have long cited the lack of transparency in Korea's regulatory system. As more U.S. companies increase their presence in Korea's economy, these administrative practices, which frequently involve regulatory measures rather than traditional trade measures like tariffs or quotas, will have an increasingly important impact on U.S. firms' access to the Korean market.

In 2005, some progress was made in enhancing regulatory transparency for U.S. firms doing business in the Korean marketplace. For instance, the Korean government promulgated a recommendation that all ministries provide a 60-day period for public comment on draft laws and regulations related to trade and economic issues. Further, the Roh Administration has charged the Deregulation Taskforce Team, the Corporate Difficulties Resolution Center, and the standing Regulatory Reform Committee to focus on different aspects of regulatory reform, both systemic and sector-specific. The Korean government agreed in 2005 that it would work closely with the United States and with the U.S. business community, including establishing a specific channel for communication on these topics, as it develops its recommendations to these three bodies in an effort to eliminate or amend certain Korean regulations. We will continue to monitor Korean government implementation of these programs.

During bilateral trade consultations in 2005, the United States continued to raise concerns with respect to transparency, including: unreasonably short public comment periods for draft regulations; final draft regulations not incorporating public comments; inconsistent application of regulations; and concern that foreign investors may be disproportionately targeted by certain Korean regulatory agencies.

c. Telecommunications

The possibility of Korean government intervention in commercial aspects of the telecommunications sector, including in the selection and mandating of technologies, licensing procedures, and procurement, continued to be of concern to the United States in 2005. The Korean government has the ability to influence the sector both directly and indirectly through industry associations, quasi-governmental commissions, and licensing conditions. As a result, U.S. firms with leading-edge technologies have sometimes encountered resistance to their efforts to introduce new software and technologies to the market.

For example, in July 2004 Korea mandated a single standard for a new wireless portable broadband Internet service -- which carries the brand name "WiBro" in Korea -- despite U.S. concerns that a single standard would exclude viable foreign products without sufficient justification for a government-mandated standard. In January 2005, the government allocated three WiBro licenses (although one licensee subsequently decided not to proceed with WiBro), and these licensed firms began to implement their infrastructure build-out in preparation for commercial service.

Some limited progress in entering this market was made by U.S. companies during 2005, as several U.S. technology firms began to supply WiBro-related technology and equipment. The service will be commercialized nationwide in 2006. The United States will continue to urge Korea to allow other technologies to be deployed for providing wireless portable broadband Internet services and, more generally, to ensure that Korea sets standards and licensing requirements consistent with its bilateral and multilateral trade obligations, and that any such measures do not subject foreign firms to discriminatory treatment.

The United States strongly advocated during quarterly trade discussions in 2005 for further liberalization of the Korean telecommunications services market, and called on Korea to remove limits on foreign shareholdings of Korean facility-based telecommunications operators. The United States will continue in both bilateral and multilateral contexts to encourage Korea to eliminate such caps on foreign ownership in the telecommunications sector.

d. Motor Vehicles

In 2005, progress was made on a number of automotive standards issues of concern to the United States. In June, Korea agreed to extend until the end of 2009 a grace period for foreign vehicles to meet average fuel economy targets, and to review the application of this system to foreign cars in the second half of 2009.

Korea also revised an automobile emissions regulation to provide a grace period for compliance until the end of 2008 for small volume sellers of vehicles, including U.S. automakers, in the Korean market. On license plate size and shape, the Korean government agreed to allow small sellers to be exempted from a requirement to use European standards.

The resolution of these standards issues removes certain impediments to access to the Korean market for makers of U.S. motor vehicles. Although overall auto sales in the Korean market were down one percent during the first nine months of 2005, sales of imported vehicles increased 26 percent during the same time period. While sales trends are headed in the right direction, however, imported vehicle sales continue to represent an unreasonably small share of the Korean market – roughly 3 percent.

The United States will continue to work with Korea to ensure fair market access for foreign motor vehicles, consistent with the letter and spirit of the October 1998 United States-Korea Memorandum of Understanding (MOU) Regarding Foreign Motor Vehicles. During 2005, both the United States government and U.S. industry made specific suggestions to the Korean government on fulfillment of the MOU commitment to "steadily reduce the tax burden on motor vehicle owners in the ROK in a way that advances the objectives of this MOU." To date, Korea has yet to announce a comprehensive tax reform plan. The United States has recognized that this is a complex process, but stressed the importance of developing a comprehensive and transparent plan to meet this critical objective. In addition to standards and tax reform, the United States will also continue to work with Korea on tariff reduction and improving consumer perception of imported vehicles.

e. Pharmaceuticals

The United States and Korea have worked extensively since 1999 to address a number of market access issues in the pharmaceutical sector. Over the past year, bilateral consultations have focused on transparency, pricing and regulatory issues. Progress was made in all three of these areas during 2005.

<u>Transparency</u>: In early 2005, Korea's Ministry of Health and Welfare (MHW) began to provide written justifications for pricing decisions that differed from the applicant company's request, and agreed to work with the multinational industry to improve the quality of the written justifications, accepting as a basis for its work a template provided by the Korea Research-based Pharmaceutical Industry Association. MHW also assured the United States at the October 2005 quarterly trade discussions that it would work with the multinational pharmaceutical industry to design and implement a truly independent appeals mechanism to review contested reimbursement and pricing decisions.

Pricing: Throughout the year and through multiple channels, the United States continued to press Korea to offer A-7 (the average ex-factory price in the A-7 countries of the United States, United Kingdom, Germany, France, Italy, Switzerland, and Japan) pricing to all new innovative medicines produced by U.S. companies and to better enforce the Actual Transaction Price (ATP) system. In a welcome development, at the October 2005 quarterly trade meeting, MHW announced its agreement that criteria for A-7 pricing should be made less subjective and decision-making should be less arbitrary. As a first step, it announced that it would undertake a review of all previous A-7 decisions to determine which factors were most important for decision-making purposes. On the basis of this review, MHW assured the United States that it would work with industry to develop a clear and objective set of decision-making criteria for A-7 pricing. The Korean government has also assured the United States that it has no immediate plans to implement proposals that would change the calculation methodology of Korea's "triennial re-pricing exercise" to the detriment of innovative foreign pharmaceuticals.

The United States remains concerned that lack of appropriate enforcement of the Actual Transaction Price (ATP) system has led to market distortion, artificially high-priced generic products, and incentives for doctors to prescribe medications for profit. ATP was designed to end hospitals' fraudulent practice of demanding discounts from drug makers when buying drugs and then pocketing the difference between the discounted price and the larger reimbursement price provided by the government-operated health insurance system. However, ineffective enforcement of ATP has allowed such practices to continue. In 2005, a coalition of Korean medical associations agreed to a voluntary charter eschewing the practice of demanding discounts from pharmaceutical companies, but it is not yet clear if this approach will have an impact on the problem.

Regulatory: In October 2004, the Korean Food and Drug Administration (KFDA) considered granting marketing approval to a generic version of a U.S. company's drug even though the original drug was still undergoing post-marketing surveillance in Korea and the generic manufacturer did not provide KFDA with comparable safety and efficacy data as the original. In essence, KFDA considered allowing the generic maker to rely on the data provided in the application of the original drug even though Korea provides a *de facto* period of data protection as required by Article 39.3 of the WTO TRIPS Agreement. Aware of these concerns, KFDA decided on March 31, 2005 that the generic manufacturer would have to supply a full portfolio of clinical data in order to obtain market approval. The United States welcomed this appropriate reconfirmation of Korea's policy, and will continue to monitor Korea's compliance with its WTO TRIPS obligations regarding pharmaceutical data protection.

f. Intellectual Property Rights (IPR)

Korea took significant steps to strengthen its intellectual property regime over the past year. In recognition of Korea's efforts, USTR moved Korea from the Special 301 Priority Watch List to the Watch List in April 2005. Meaningful improvements made by Korea include: introducing legislation that will create protection for sound recordings transmitted over the Internet (using both peer-to-peer and web-casting services); implementing regulations that restore the ability of the Korea Media Rating Board to take necessary steps to stop film piracy; and increasing enforcement activities by the Standing Inspection Team against institutions using illegal software.

In 2005, under the leadership of the Prime Ministers Office, the Korean government developed a "Master Plan" to provide overall policy guidance to the government as it works to improve IPR protection in the country. The U.S. government has been informed that the "Master Plan" will continue to evolve to address new concerns as they arise.

In addition, Korea has created a Copyright Protection Center to improve IPR law enforcement in Korea. Partly as a result of these steps, enforcement statistics show a rapid increase in government action.

While Korea has yet to institute some form of sentencing guidelines for intellectual property crimes, increased penalties and fines have been included in several pieces of proposed legislation covering intellectual property rights, including an amendment to the Computer Program Protection Act. Further, recent Korean court decisions ruling against online service providers that facilitate copyright infringement through peer-to-peer file sharing are encouraging signs of a more aggressive approach to enforcement.

Notwithstanding these improvements, the United States continued to urge Korea to take additional steps to update its intellectual property protection regime to prevent the proliferation of unauthorized copying of copyrighted material, particularly in light of the prevalence of illegal transmission of copyrighted material over Korea's very advanced high-speed data networks. In particular, Korea's record of preventing the illegal digital transmission of sound recordings continues to be of concern, leading to a high piracy rate for U.S. (and Korean) content. Legislation passed by the Korean National Assembly in September 2004 was helpful, but introduced only a limited right of “making available” and not the full “right of communication to the public.” New legislation creating a more comprehensive right of transmission for sound recordings transmitted over the Internet, covering both peer-to-peer and web-casting services, remained pending before the National Assembly at the end of 2005. It will be important for the National Assembly to pass the improved legislation as soon as possible.

Other U.S. intellectual property concerns in Korea include: 1) the need to explicitly recognize that temporary copies (e.g., temporary digital copies of software) are a part of the reproduction right and constitute a reproduction; 2) combating high levels of book piracy, especially in university communities; and 3) for computer software, ensuring full respect for the fundamental principle enshrined in international law and practice that rights holders have the exclusive right to determine the manner in which they wish to license their works. The United States has also urged Korea to proceed with the prompt ratification and implementation of the WIPO Performances and Phonograms Treaty (WPPT), to which Korea has already committed. The United States has also asked Korea to strengthen and harmonize its laws on technological protection measures (for copyrighted works) and to extend the copyright term by 20 years.

g. Government Support for Korean Industry

The U.S. government continues to be concerned by support extended to Korean firms by Korean government-owned financial institutions, notably the support given to Hynix Semiconductor, Inc. (Hynix), Korea's second largest semiconductor manufacturer. The assistance provided by the Korean government to Hynix was examined in a formal countervailing duty (CVD) investigation was conducted and completed by the U.S. Commerce Department and the International Trade Commission in 2003. As a result of this investigation, Hynix's exports to the United States are subject to countervailing duties to offset the large subsidies provided to the company. In June 2003, Korea initiated dispute settlement proceedings in the WTO to challenge the U.S. CVD order, but that challenge was unsuccessful. As a result, 44.29 percent CVD duties remain in effect. The EU also enforces has a CVD order on imports of semiconductors from Hynix and Japan is nearing completion of its CVD investigation of Hynix.

The U.S. government also continues to focus on concerns raised by the U.S. paper industry about targeted Korean government aid to its coated paper sector, including low-cost facility investment loans and loan guarantees, tax benefits for facility expansion, government-sponsored creation of a paper manufacturing complex and government sale of debt obligations.

The U.S. government will continue to consult closely with U.S. industry to determine the best course of action to address concerns in this sector.

With regard to government support across all sectors, the U.S. government also has concerns about the role played by the government-owned Korea Development Bank (KDB). Traditionally, the KDB has been one of the government's main sources for policy-directed lending to favored industries. Lending and equity investments by the KDB appear to have contributed to overcapacity of certain Korean industries. The U.S. government will continue to monitor the lending policies of the KDB and other government-owned or affiliated financial institutions.

h. Screen Quota

Under Korea's screen quota system, domestic films must be shown in each cinema for a minimum of 146 days of the year, corresponding to a 40 percent market share. While the domestic market share for Korean films has, for the last several years, far surpassed the 40 percent market share, Korean filmmakers and lawmakers have continued to resist modifications to the system. From January to October 2005, for instance, Korean films have captured approximately a 55 percent market share. The United States continued to raise its concerns on this issue in 2005, particularly its lack of economic justification given the worldwide competitiveness of the Korean film industry.

i. Agriculture

Rice*:* Agreement on a ten-year extension of Korea's exception to tariffication of rice imports was reached in December 2004. For U.S. rice exporters, three major benefits were provided by this agreement: (1) Korea will double its total rice imports over the next ten years; (2) Korea will purchase at least 50,076 metric tons of U.S. rice in each of the next ten years; and (3) for the first time, imported rice will be made available to Korean consumers at the retail level. The ten-year extension was notified to the WTO in late December 2004 and approved by WTO members in April 2005. The Korean National Assembly ratified the agreement on November 23, 2005. Given this late date for ratification, insufficient time remained for Korea to fulfill its rice tendering obligations under the agreement in 2005. As a result, the 2005 tendering commitments are expected to be fulfilled in early 2006, and 2006 commitments will likely begin in the middle of 2006, if not sooner. USTR will continue to monitor this situation closely.

5. India

a. General

In 2005, the United States and India increased their efforts to develop a constructive long-term trade relationship. These efforts included work to identify areas for cooperation and focused on WTO matters as well as bilateral trade issues, including India's tariff and tax regime, intellectual property rights, and subsidies. India continues to limit market access in various sectors, including through high taxes and tariffs, non-transparent procedures, differential treatment of imports, and non-tariff technical measures.

Total bilateral trade in services and goods will reach about $27 billion in 2005, an increase from about $12 billion in bilateral trade ten years ago. The total amount of bilateral trade is not consistent with the size and potential of both the U.S. and the Indian economies, and both governments agree that trade and investment flows should be much greater.

b. Trade Dialogue

On July 18, 2005, on the occasion of President Bush's meeting with India's Prime Minister Manmohan Singh, United States Trade Representative Rob Portman and India's Minister of Commerce and Industry Shri Kamal Nath announced the establishment of the United States-India Trade Policy Forum, a new mechanism for the two countries to discuss bilateral trade and related issues. The forum is designed to expand bilateral trade and investment relations between India and the United States, and also will address multilateral issues such as the ongoing Doha Development Round negotiations. The Trade Policy Forum is part of the overall Economic Dialogue between India and the United States. Ambassador Portman and Minister Nath will oversee the Forum and guide its work. Through regular dialogue both sides hope to resolve potential issues before they become problems.

On November 12, 2005, Ambassador Portman and Minister Nath co-chaired the inaugural session of the U.S.-India Trade Policy Forum in New Delhi. The Forum meeting was preceded on November 11 by a full day of intensive consultations between senior officials of concerned departments from the two countries. The agenda included discussions on tariff and non-tariff barriers, agriculture, investment, services, intellectual property, and the Doha Development Agenda. Minister Nath and Ambassador Portman agreed on a series of next steps with a view to facilitating and promoting greater trade and investment flows between the two countries. The two sides agreed to establish focus groups on agriculture, tariff/non-tariff barriers, services, investment and innovation and creativity that will meet on a regular basis, and will function under the supervision of the Forum vice-chairs, India's Commerce Secretary S.N. Menon and Deputy U.S. Trade Representative Karan Bhatia. The next meeting of the Trade Policy Forum will take place in 2006 in Washington, D.C.

6. Pakistan

The year witnessed two important advances in U.S. – Pakistan trade and investment relations.

First, there was significant progress in Pakistan's efforts to strengthen the enforcement of intellectual property rights. In May, Prime Minister Aziz gave enforcement authority to the Federal Investigation Agency's (FIA) new intellectual property unit. Immediately following the order the FIA simultaneously raided five optical disc manufacturing plants and seized a large number of optical disks. Plants producing illegal discs were closed. Other raids were staged in the following months. In addition, President Musharraf signed an ordinance giving authority to the Intellectual Property Organization, an independent regulatory agency.

Second, three rounds of Bilateral Investment Treaty negotiations between the United States and Pakistan were held. Progress was made in narrowing differences over the text. A fourth BIT negotiating round was held in January 2006.

A Trade and Investment Council (TIC) meeting, under the auspices of the U.S. – Pakistan Trade and Investment Framework Agreement was not held in 2005. A mini-TIC meeting on market access liberalization, however, was held following the January BIT negotiations in London. Pakistani officials also participated in a seminar held by USTR in Washington on the details of U.S. Free Trade Agreements.

Several meetings were held between the U.S. Trade Representative and the Pakistani Minister of Commerce. Pakistan played an important role at the Hong Kong WTO Ministerial, with Minister Khan serving as the facilitator of the Non-Agriculture Market Access Negotiations.

7. Afghanistan

Afghanistan and the United States held their inaugural Trade and Investment Council (TIC) meeting in November 2005. The Council was created by the Trade and Investment Framework Agreement (TIFA) that was signed in September 2004. Afghan Minister of Commerce and Senior Advisor to the President Arsala traveled to Washington for the meeting.

Topics discussed were: priorities for trade capacity building and the identification of unmet needs, measures to improve Afghanistan's investment climate and foster exports, trade preferences, and WTO accession.

8. People's Republic of China

Since its accession to the WTO on December 11, 2001, China has taken important steps in implementing the numerous commitments that it undertook in its WTO accession agreement. With most of China's key commitments scheduled to have been phased-in fully by December 11, 2004, this past year provided a first critical glimpse at what to expect of China as a WTO member with its full range of commitments in place. At this point, however, China's implementation of its WTO obligations is still incomplete. While China has made important progress in implementing specific commitments and in adhering to the ongoing obligations of a WTO member, there are still serious problems in some important areas, especially in the enforcement of intellectual property rights (IPR).

Many of the shortfalls in China's WTO compliance efforts seem to stem from China's incomplete transition from being a state-planned economy. China has not yet fully embraced the key WTO principles of market access, non-discrimination and national treatment, nor has China fully institutionalized market mechanisms and made its trade regime predictable and transparent. While China has made some important progress, it continued to use an array of industrial policy tools in 2005 to promote or protect favored sectors and industries, and these tools at times collide with China's WTO obligations. The problems that result continue to foster a view of China in some quarters as an unfair and protectionist trader rather than an open and non-discriminatory economy that is one of the major engines of growth in the world.

When the United States and other WTO members concluded 15 years of negotiations with China over the specific terms of its entry into the WTO at the end of 2001, China had agreed to extensive, far-reaching and often complex commitments to change its trade regime, at all levels of government. China had committed to implement a set of sweeping reforms that required it to lower trade barriers in virtually every sector of the economy, provide national treatment and improved market access to goods and services imported from the United States and other WTO members, and protect intellectual property rights.

China had also agreed to special rules regarding subsidies and the operation of state-owned enterprises, in light of the state's large role in China's economy. The United States and other WTO members envisioned that faithful WTO implementation by China would reduce the ability of non-market forces, including government policies and directives from government officials; to intervene in the market to direct or restrain trade flows. Eventually, it was expected that China's economy would operate on market principles, like its trading partners' economies.

The first year of China's WTO membership – 2002 – saw significant but uneven progress, as China took steps to repeal, revise or enact more than one thousand laws, regulations and other measures, in an effort to bring its trading system into compliance with WTO standards. By 2003, however, China's WTO implementation efforts had lost a significant amount of momentum, and we identified numerous specific WTO-related problems. As those problems mounted in 2003, the Administration responded by stepping up its efforts to engage China's senior leaders, culminating in December 2003, when President Bush and Premier Wen committed to upgrade the level of discussions and undertake an intensive program of bilateral interaction – with a view to resolving problems in the U.S.-China trade relationship and facilitating increased U.S. exports to China. This new approach began to take shape with the high-level Joint Commission on Commerce and Trade (JCCT) meeting in April 2004. At that meeting, the two sides resolved no fewer than seven potential disputes over China's WTO compliance. Three months later, the United States and China were also able to mutually resolve the first-ever dispute settlement case brought against China at the WTO, in which the United States, with support from four other WTO members, challenged discriminatory value-added tax policies that favored Chinese-produced semiconductors over imported semiconductors.

By the end of 2004, expectations for significant WTO implementation progress by China were high, given the success of the April 2004 JCCT meeting and promises by China's senior leaders that China would fully and in a timely manner adhere to the scheduled phase-in of key commitments on trading rights and distribution services by December 11, 2004. However, in 2005, old problems like ineffective intellectual property (IPR) enforcement persisted and new problems in areas such as distribution services began to emerge. The Administration utilized high-level engagement, expert-to-expert discussions and WTO mechanisms to address these problems, and in particular, initiated a comprehensive new strategy for obtaining improvements in China's IPR enforcement. Many of these efforts culminated in a meeting of the JCCT in July 2005, co-chaired by Vice Premier Wu Yi on the Chinese side and Secretary of Commerce Gutierrez and United States Trade Representative Portman on the U.S. side. That meeting achieved measured progress on a range of concerns, but it fell short of realizing the many mutually beneficial outcomes of the April 2004 JCCT meeting.

Many U.S. companies continue to view achievement of the full market access and predictability and transparency in trade envisioned by China's WTO accession agreement as essential and view Chinese governmental efforts to manage trade as the root cause of many of the problems they faced. They are hopeful that China will continue to make progress toward removing the state from the Chinese economy and will recognize that the market, left to its own devices, is the most effective vehicle for Chinese economic growth. In the absence of concrete, sustained and visible progress, however, they believed that China could face a more serious political challenge in the United States. The areas of particular concern to the United States and U.S. industry, and most in need of improved WTO compliance efforts, are summarized below.

Intellectual Property Rights

China has undertaken substantial efforts to implement its commitment to overhaul its legal regime to ensure the protection of intellectual property rights in accordance with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). While the United States continues to work with China in some problem areas, China has done a relatively good job of overhauling its legal regime. However, China has been much less successful in enforcing its laws and regulations and ensuring the effective IPR enforcement required by the TRIPS Agreement. With most in U.S. industry reporting no significant reduction in IPR infringement levels in 2005, IPR enforcement remains problematic. Counterfeiting and piracy in China remain at epidemic levels and cause serious economic harm to U.S. businesses in virtually every sector of the economy.

The Administration places the highest priority on improving IPR enforcement in China. Building on its engagement with China at the April 2004 JCCT meeting, the United States took several aggressive steps in 2005 in an effort to obtain meaningful progress. First, the United States conducted an out-of-cycle review under the Special 301 provisions of U.S. trade law, which involved a systematic evaluation of China's entire IPR enforcement regime, supported by submissions from U.S. manufacturers and businesses to document IPR infringement to the extent possible. At the conclusion of this review in April 2005, the Administration elevated China to the Special 301 "Priority Watch" list and set forth a comprehensive strategy for addressing China's ineffective IPR enforcement regime, which included the possible use of WTO mechanisms, as appropriate. The United States immediately began to pursue this strategy during the period prior to the July 2005 JCCT meeting, as the United States sought to strengthen the commitments that China had made at the April 2004 JCCT meeting and to obtain China's commitment for greater involvement of its police authorities in IPR enforcement matters.

China subsequently agreed to take a series of specific actions designed to increase criminal prosecutions of IPR violators, improve enforcement at the border, counter piracy of movies, audio-visual products and software, address Internet-related piracy and assist small- and medium-sized U.S. companies experiencing China-related IPR problems, among other things. Because lack of transparency on IPR infringement levels and enforcement activities in China has hampered the United States' ability to assess the effectiveness of China's efforts to improve IPR enforcement since the April 2004 JCCT meeting, the United States also submitted a request to China under Article 63.3 of the TRIPS Agreement in October 2005. The United States' request, made in conjunction with similar requests by Japan and Switzerland, seeks detailed information from China on its IPR enforcement efforts over the last four years. China's response to these requests, anticipated in early 2006, will help the United States further evaluate whether China is taking all necessary steps to address the rampant IPR infringement found throughout China.

The United States is committed to working constructively with China to significantly reduce IPR infringement levels in China and continues to devote extra staff and resources, both in Washington and in Beijing, to address the many aspects of this problem. At the same time, the United States remains prepared to take whatever action is necessary and appropriate to ensure that China develops and implements an effective system of IPR enforcement, as required by the TRIPS Agreement.

Trading Rights and Distribution Services

China was scheduled to phase in two key WTO commitments by December 11, 2004. These commitments called for full liberalization of trading rights – the right to import and export – and distribution services, including wholesaling services, commission agents' services, retail services and franchising services, as well as related services. As had been agreed at the JCCT meeting in April 2004, China implemented its trading rights commitments nearly six months ahead of schedule, permitting companies and individuals to import and export goods in China directly without having to use a middleman. However, delay and confusion characterized China's efforts to implement its distribution services commitments, substantially hindering the ability of U.S. and other foreign companies to begin engaging freely in the distribution of goods in China. It took several months and repeated U.S. engagement for China to address many of the problems that arose in this critical area, and some problems still remain. In addition, China only issued the regulations implementing its commitment to open its market for sales away from a fixed location, also known as "direct selling", in September 2005, and these regulations contain several problematic provisions that the United States has urged China to reconsider. The Administration will continue to pursue these important issues in 2006 to ensure that China fully meets its commitments.

Industrial Policies

Since acceding to the WTO, China has increasingly resorted to industrial policies that limit market access by non-Chinese origin goods or bring substantial government resources to support increased exports. The objective of these policies seems to be to support the development of Chinese industries that are higher up the economic value chain than the industries that are able to make full use of China's current labor-intensive base, or simply to protect less competitive domestic industries.

In 2005, examples of these industrial policies are readily evident. They include the issuance of regulations on automotive parts tariffs that serve to prolong prohibited local content requirements for motor vehicles, the telecommunications regulator's interference in commercial negotiations over royalty payments to intellectual property rights holders in the area of 3G standards, the pursuit of unique national standards in many areas of high technology that could lead to the extraction of technology or intellectual property from foreign rights holders, draft government procurement regulations mandating purchases of Chinese-produced software, a new steel industrial policy that calls for the state's management of nearly every major aspect of China's steel industry, continuing export restrictions on coke, and excessive government subsidization benefiting a range of domestic industries in China. Some of these policies appear to conflict with China's WTO commitments in the areas of market access, national treatment and technology transfer, among others.

The United States and China made important progress in resolving U.S. concerns regarding the draft software procurement regulations at the July 2005 JCCT meeting. However, serious disagreements over a number of the other industrial policies remain, particularly regarding China's regulations on auto parts tariffs and China's export restrictions on coke. The United States will continue to press China on these issues and will take further appropriate actions seeking elimination of these policies.

Services

Overall, the United States continued to enjoy a substantial surplus in trade in services with China in 2005, and the market for U.S. service providers in China remains promising. However, in some sectors, the expectations of the United States and other WTO members when agreeing to China's commitments to increase market access and remove restrictions have not been fully realized.

Chinese regulatory authorities continue to frustrate efforts of U.S. providers of insurance, telecommunications, construction and engineering and other services to achieve their full market potential in China through the use of an opaque regulatory process, overly burdensome licensing and operating requirements, and other means. In 2005, China did follow through on commitments made at the April 2004 and July 2005 JCCT meetings by resuming a dialogue on insurance issues, and China also was moving forward with a promised dialogue on telecommunications issues, expected to take place in early 2006.

Agriculture

U.S. agricultural exports to China in 2004 totaled $5.5 billion, and 2005 was also a very successful year, with China becoming the United States' fourth largest agricultural export market. U.S. exports of agricultural commodities, particularly cotton and wheat, have increased dramatically in recent years, and U.S. exports of soybeans continued to perform strongly in 2005, well exceeding $2 billion for the third year in a row, with China remaining the leading export destination for U.S. soybeans.

While U.S. exports of agricultural commodities largely fulfill the potential envisioned by U.S. negotiators during the years leading up to China's WTO accession, China's WTO implementation in the agricultural sector is beset by uncertainty, largely because of selective intervention in the market by China's regulatory authorities. As in past years, capricious practices by Chinese customs and quarantine officials can delay or halt shipments of agricultural products into China, while sanitary and phytosanitary standards with questionable scientific bases and a generally opaque regulatory regime frequently bedevil traders in agricultural commodities, who require as much predictability and transparency as possible in order to preserve margins and reduce the already substantial risks involved in commodities trade. As a result, trade with China in the agricultural sector remains among the least transparent and predictable of the world's major markets. In 2006, the United States will continue to pursue vigorous bilateral engagement with China in order to obtain progress on its outstanding concerns, particularly with regard to China's continuing ban on the importation of U.S. beef products.

Transparency

One of the fundamental principles of the WTO Agreement, reinforced throughout China's WTO accession agreement, is transparency. Adherence to this principle permits markets to function effectively and reduces opportunities for officials to engage in trade-distorting practices behind closed doors. While China's transparency commitments in many ways require a profound historical shift, China has made important strides to improve transparency across a wide range of national and provincial authorities. China's Ministry of Commerce remains most notable for its impressive moves toward adopting WTO transparency norms. However, many other ministries and agencies continue to resist the changes called for by China's WTO obligations. As a result, many of China's regulatory regimes continue to suffer from systemic opacity, frustrating efforts of foreign and domestic businesses to achieve the potential benefits of China's WTO accession.

Conclusion

In 2006, the Administration will continue its relentless efforts to ensure China's full compliance with its WTO commitments, with particular emphasis on reducing IPR infringement levels in China, and on pressing China to make greater efforts to institutionalize market mechanisms and make its trade regime more predictable and transparent. Throughout this process, the Administration remains committed to working constructively with China to ensure that all of the benefits of China's WTO membership are fully realized by U.S. workers, businesses, farmers, service providers and consumers and that the problems in our trade relationship are appropriately resolved. When this cooperative process is not successful, however, the Administration will not hesitate to employ the full range of dispute settlement and other tools available as a result of China's accession to the WTO. At the same time, the Administration will continue to strictly enforce its trade laws to ensure that U.S. interests are not harmed by unfair trade practices.

9. Japan

The United States continues to place significant importance on promoting regulatory and structural reform in Japan, expanding market access opportunities for U.S. goods and services, and supporting the implementation of pro-competitive policies throughout the Japanese economy. In this connection, the United States welcomes Prime Minister Junichiro Koizumi's commitment to stay the course on reform in order to keep Japan's economic growth on track. It remains as important as ever that Japan continues to sweep away the web of excessive regulations that hinder commerce, to improve transparency in policy making, and to implement reforms that spur competitiveness and create new business opportunities.

While the U.S. government worked with Japan during 2005 to resolve important issues on our bilateral trade agenda, the two governments also cooperated to address new regional and global issues facing our economies, particularly efforts to strengthen the protection and enforcement of intellectual property rights. The United States continues to work closely with Japan in other fora, including the WTO and APEC, to advance our overall trade priorities.

Overview of Accomplishments in 2005

U.S.-Japan Economic Partnership for Growth

The U.S.-Japan Economic Partnership for Growth (the Partnership), the chief vehicle for managing our bilateral trade and economic relations, addresses an array of policy issues to promote sustainable growth in both countries. Issues raised in the Partnership include macroeconomic policies, structural and regulatory reform initiatives, facilitation of foreign direct investment, and the elimination of trade barriers. Fora under the Partnership include the Subcabinet Economic Dialogue, the Regulatory Reform and Competition Policy Initiative (Regulatory Reform Initiative), the Investment Initiative, the Private Sector/Government Commission, the Financial Dialogue, and the Trade Forum. Highlights of Partnership activities in 2005 include:

Throughout 2005, numerous Working Groups and a High-Level Officials Group met under the Regulatory Reform Initiative to discuss reform proposals that culminated in a Fourth Report to the Leaders, which was conveyed to President Bush and Prime Minister Koizumi on November 2, 2005. That report detailed a range of regulatory reform measures that Japan agreed to implement in key areas such as telecommunications, information technologies, intellectual property, medical devices and pharmaceuticals, energy, agriculture, competition policy, and the privatization of Japan Post.

On December 7, 2005, the United States and Japan convened a meeting of the Trade Forum in Seattle, Washington where the two governments addressed a range of key bilateral issues, including the reopening of Japan's beef market, market access concerns related to the public works (design/construction**)** and marine craft sectors, pending restrictions on establishment of large retail stores, and a plan to raise taxes on wine in a manner that may impact U.S. producers.

In 2005, the United States and Japan convened three working-level meetings of the Investment Initiative and raised a number of topics, including mergers and acquisitions, medical services, and education services. This Initiative includes co-sponsored investment promotion seminars in both countries to bring about better understanding and support for Foreign Direct Investment (FDI) from regional government and business leaders.

a. Regulatory Reform

The November 2005 Report to the Leaders under the Regulatory Reform Initiative specified important progress across a number of areas designed to spur new competition and level the playing field for all companies operating in Japan. Progress, for example, was achieved in the sectors of telecommunications, information technologies, intellectual property, energy, medical devices and pharmaceuticals, agriculture, and financial services. Other important forward movement was made in a number of cross-cutting areas, including improvements in transparency, reform of Japan's legal system and commercial code, new tools to strengthen competition policy, and steps to streamline aspects of the Japanese distribution sector.

Building on progress achieved in the first four years of the Regulatory Reform Initiative, the United States presented Japan on December 7, 2005, with a new set of annual recommendations in its fifth submission under the Regulatory Reform Initiative. These recommendations support the overall objectives of the Partnership by urging Japan to take steps to help continue to grow and open its market. With these recommendations, the United States again placed emphasis in particular areas Japan has identified as reform priorities, including in the medical devices and pharmaceuticals area and the privatization and reform of Japan Post.

The December 2005 recommendations will be discussed in our bilateral High-Level Officials Group and in the various Working Groups established under the Regulatory Reform Initiative. Initial meetings to discuss these recommendations will take place within the first several weeks of 2006. Following additional meetings later in the spring, a fifth annual report to the President and Prime Minister will be completed in mid-2006 to detail progress made under this year's Initiative, including specific measures to be taken by each government.

Highlights of the Fourth Report to the Leaders and key reform recommendations submitted in December 2005 are as follows:

i. Sectoral Regulatory Reform

Telecommunications: Establishment of a pro-competitive telecommunications services market in Japan based on transparent regulation is the primary focus of the United States in pursuing regulatory reform for this sector in Japan. Despite significant progress, Japan's telecommunications regulator, the Ministry of Internal Affairs and Communications (MIC), continues to defer to the interests of Nippon Telegraph and Telephone (NTT) at the expense of business and residential users and to the detriment of promoting competition in the telecommunications services market. While the competitive provision of broadband services is encouraging, the inability of new entrants to make inroads into NTT's control of 98 percent of subscriber telephone lines and 55 percent of mobile customers continues to impair the introduction of innovative, low-cost services to business and residential users in Japan's telecommunications market, one of the world's largest.

The November 2005 Report to the Leaders highlighted measures taken by Japan to promote further competition in this sector. These measures included making substantial blocks of spectrum available primarily for new wireless entrants, thereby creating opportunities not only for telecommunications companies wanting to expand into the wireless business in Japan, but also equipment suppliers to those companies. MIC pre-approved licenses in October for three new market entrants, which have already attracted substantial U.S. investment to deploy new facilities.

MIC continues to grapple with NTT's loss of business to wireless and voice-over-the-Internet while maintaining its universal service obligations. In 2005, MIC implemented a more rational rate structure for wireline interconnection rates by phasing out fixed costs that have been unnecessarily charged to competitors. The United States had pressed Japan for many years to remove these costs from the formula, because they distort the rates for wholesale access to the network, calculated on a per-minute basis. MIC, however, is allowing NTT a five-year transition period, which delays the much-needed reductions for competitors. MIC is expected to continue studying how to revise or replace the rate structure, and the United States will continue discussions with MIC to ensure any changes will improve the competitive environment. The mobile wireless sector also remains an area of concern.

While NTT DoCoMo, designated since 2002 as a "dominant carrier," has reduced its interconnection rates by 25 percent over the past four years, rate reductions slowed dramatically last year to only 3 percent and overall rate levels in Japan remain high. The new entrants have announced their intention to lower such rates, as well as provide more consumer choice in this concentrated market.

In the December 2005 Regulatory Reform submission, the United States urged Japan to take bold steps to improve competition in both the mobile and wireline sectors, including: strengthening regulatory independence; reinforcing dominant carrier safeguards; investigating mobile termination rates to ensure reasonable rates and competitive neutrality; and ensuring transparency, competition, and technological neutrality in Japan's spectrum management policies and practices (such as licensing, allocation, testing, and fees). The United States also noted NTT's intentions to reorganize its group companies, and urged Japan to consider steps to ensure that such changes will not be anticompetitive. In addition, the United States called for the completion of an Agreement on Mutual Recognition of Conformity Assessment Procedures for Telecommunications Equipment with Japan that would facilitate more efficient trade in telecommunications products. These recommendations will be discussed at the next meeting of the Telecommunications Working Group.

Information Technologies: The Information Technologies Working Group (ITWG) strives to promote vibrant and competitive IT and e-commerce sectors in Japan that can benefit the U.S. and Japanese economies. Since 2001, the various e-Japan Strategies and Programs have promoted the use of IT and e-commerce in Japan by removing regulatory barriers and increasingly emphasizing private-sector input and leadership in the development and implementation of IT and e-commerce policies. After focusing on IT infrastructure build-out earlier this decade, Japan's strategies have shifted to highlighting IT and e-commerce use. Notably, the IT Policy Package 2005 promoted the use of IT and e-commerce in areas closely related to the welfare of individual citizens, such as medical services, and prioritized such areas as information security and e-government.

Japan recognizes, however, that legal and other barriers persist which prevent faster growth of IT and e-commerce use. Japan also recognizes that its policies have tremendous effects on businesses and other organizations operating in Japan, on Japanese consumers, and on cross-border online transactions. As Japan responds to the challenges that lie ahead in this pivotal sector, the U.S. government continues to work with it to promote a regulatory framework that ensures competition, promotes innovation, protects users, allows private sector-led regulation where appropriate, and protects intellectual property rights in the digital age. Fostering such a framework will further facilitate the development of Japan's IT and e-commerce markets and provide significant opportunities for U.S. firms. In 2005, ITWG discussions focused on protecting intellectual property rights; removing regulatory and non-regulatory barriers to e-commerce; promoting e-commerce via private-sector self-regulatory mechanisms and technologically neutral, market-driven solutions; and expanding IT procurement opportunities.

With regard to protecting intellectual property, Japan and the United States reaffirmed in the Report to the Leaders their commitment to intensify cooperation to strengthen intellectual property rights protection and enforcement in Asia and around the world. This is part of a broader effort by the United States and Japan to cooperate on IPR, which also included co-sponsorship of the APEC Anti-Counterfeiting and Piracy Initiative in 2005.

In addition, Japan is undertaking a sweeping review of its Copyright Law to address issues stemming from the burgeoning use of digital technology, which the United States hopes, among other things, will result in decisions to implement a statutory damages system and extend the term of protection for sound recordings and all copyrighted works.

With respect to removing barriers to e-commerce, as spelled out in the Report to the Leaders, Japan will continue to lift barriers in existing laws and regulations that hinder e-commerce (such as requirements for face-to-face or paper-based transactions). More broadly, Japan agrees it is generally important to implement laws, regulations, and guidelines related to IT in a manner that strives not to unduly promote, mandate, or favor specific technologies. This in turn helps to promote innovation in e-commerce and other IT sectors.

In the Report to the Leaders, Japan also acknowledged the private sector's leadership role in online consumer protection and management of personal data. Japan agreed to ensure that the implementation of its Law Concerning the Promotion of the Use of Alternative Dispute Resolution (ADR) Procedures does not hinder the use of ADR in e-commerce disputes either within Japan or in the cross-border context. Japan also took steps to implement its law for the Protection of Personal Information in a transparent manner by convening a second public-private sector roundtable in March 2005 that provided U.S. and Japanese industry an opportunity to offer input on this law's implementation, and by affirming that relevant Ministries that implement the law should publicly provide information on enforcement and corrective actions. Finally, Japan took strong anti-spam measures, including amending its law on Regulation of Transmission of Specified Electronic Mail (Anti-Spam Law) to introduce direct penalties, and agreeing to further promote international anti-spam activities in close cooperation with the private sector and the U.S. Government.

In information security and IT procurement reforms, Japan took significant steps as well. It affirmed the importance of private sector input in the development of new information security standards for central government entities by holding a public comment period on a draft of these standards in fall 2005. Japan also confirmed that it would work with the private sector to develop and disseminate voluntary best practices for information security. Finally, Japan recognized the need to continue its efforts to ensure that reforms of government information systems procurement procedures are implemented in a consistent, complete, and timely fashion. These measures are intended to help stimulate competition and innovation among vendors, enhance transparency and fairness in bidding, and promote growth in Japan's market for e-government solutions.

Building on these accomplishments, the United States made numerous recommendations in the December 2005 Regulatory Reform submission designed to foster Japan's IT sector and create greater opportunities for U.S. companies. These recommendations focus on: (1) IT and e-commerce policymaking based on private-sector input and leadership, self-regulation, technology neutrality, and international compatibility; (2) strengthening intellectual property rights and enforcement; (3) promoting online security; (4) promoting e-commerce and online services in sectors such as medicine and finance in a transparent manner; and (5) promoting further IT procurement reforms.

Energy: Japan continued to make progress in implementing energy liberalization reforms adopted by the Diet in 2003. Japan expanded retail choice in its electricity market in April 2005 to about 63 percent of the market. In the natural gas sector, retail choice stands at about 50 percent of the market as Japan continues to look at expanding the scope of liberalization starting in 2007.

The United States, through the Regulatory Reform Initiative process, urged Japan to continue to make progress in its reforms of Japan's domestic electricity and natural gas markets to help spur economic growth through greater competition as well as to create new opportunities in Japan's energy market. The Initiative's November 2005 Report to the Leaders outlined specific progress that brings Japan's energy markets closer to practices found in other developed countries.

For example, Japan saw the launch of new institutions in its energy markets during 2005, including the Japan Electric Power Exchange for electricity trading and the operational start of a Neutral System Organization to help set and enforce transmission rules. Continued efforts were also undertaken to make rule-making and revisions to relevant guidelines a transparent process, including providing opportunities for public comment. These steps are helping to strengthen confidence in the reform process.

In the natural gas sector, Japan reported on steps it has taken to help enhance development of Japan's domestic gas pipeline network and new steps to help facilitate third party access to these pipelines. The United States also continued to emphasize the importance of the establishment of a regulatory system that fosters reliable third party access to liquefied natural gas (LNG) terminals.

In addition, the United States also urged Japan to strengthen its ability to monitor and assess the state of competition in the electricity and natural gas markets. In the 2005 Report to the Leaders, Japan affirmed the importance of market monitoring, including the establishment of benchmarks and other oversight efforts to measure the effect of reforms on actual market competition. The United States applauds the emphasis Japan is placing in this area.

The United States urged Japan to continue to move forward with reforms of its electricity and natural gas sectors, and to make necessary adjustments in policy, including taking additional steps as necessary to ensure these efforts bring about lower domestic energy costs and genuinely bring about opportunities that make new market entry attractive.

Medical Devices and Pharmaceuticals: Japan's regulatory and reimbursement pricing systems unnecessarily slow the introduction of innovative U.S. medical devices and pharmaceuticals in Japan. The United States therefore continues to advocate reforms to facilitate the introduction of new devices and drugs and seeks to ensure that Japan's systems create incentives for the development of innovative products. The United States raised these issues with Japan in 2005 in the Medical Devices and Pharmaceuticals Working Group, which meets under both the Regulatory Reform Initiative and the Market-Oriented, Sector-Selective Agreement.

In April 2005, Japan completed a years-long process of amending its Pharmaceutical Affairs Law to improve its systems for ensuring the safety of medical devices and drugs and for reviewing such products before approval for sale. The establishment of the Pharmaceuticals and Medical Devices Agency (PMDA) in 2004 aimed in part to speed reviews of devices and drugs. In 2005, the U.S. government continued to urge Japan to ensure that an increase in user fees (effective in 2004) paid by drug and device manufacturers increased the size and expertise of PMDA review staff and thereby facilitated faster reviews. The United States continued to carefully monitor Japan's attempts to meet targets for faster product approvals. Among Japan's targets is a goal (to be attained by 2009) to conclude approvals for 90 percent of new medical device applications and 80 percent of new drug applications within one year. In the November 2005 Fourth Report to the Leaders, the United States and Japanese governments noted steps taken by Japan to ensure PMDA meets it performance goals for faster reviews. In the subsequent 2005 Regulatory Reform Initiative submission, the United States recommended that Japan: speed reviews and approvals by using existing performance metrics to improve the efficiency of Japan's regulatory system, help PMDA to increase its expertise, and promote the conducting of clinical trials in Japan.

As for reimbursement pricing, the United States is actively consulting with Japan as it considers changes in drug and device reimbursement prices. Japan is expected to implement price changes in 2006 as part of its existing system of biennial pricing revisions and possibly through potential reforms to its healthcare system designed to remedy fiscal problems caused by the aging of its population.

The United States stressed with the Japanese government the importance of ensuring its reimbursement system rewards the development of innovative products that provide long-run cost savings by reducing the need for surgeries and long hospital stays. In the Fourth Report to the Leaders, the two governments noted that Japan is providing U.S. industry with opportunities to consult on pricing rules, considering data from drug companies when setting reimbursement levels, and recognizing the value of diagnostics when determining reimbursement. In its December 2005 Regulatory Reform Initiative submission, the United States urged the Japanese government to ensure that any changes to the reimbursement system recognize the value of innovation, and use premium pricing rules to foster the development and introduction of advanced products.

Financial Services: Japan has made significant progress in recent years in allowing new financial products, increasing competition within and between financial industry segments, and enhancing accounting and disclosure standards. Foreign financial service providers reach customers in most segments of the Japanese financial system.

There was additional progress in financial sector deregulation in 2005. On June 22, the Diet approved revisions to the Securities and Exchange Law that will apply takeover bid rules in after-hours trading, increase disclosure requirements of parent firms of companies listed in Japan and allow non-Japanese firms to disclose their financial statements in English, with an attached summary in Japanese. On October 26, the Diet approved a bill revising the Banking Law to allow non-financial companies to handle such banking services as taking deposits and providing loans as bank agents, with the approval of the Financial Services Agency. Convenience store chain operators, supermarkets, and automobile dealers are expected to launch banking services as bank agents from April 2006.

Following 2004 legislation that removed a ban on sales of mutual funds at post offices, in 2005 Japan Post chose three private financial firms to produce mutual funds for sale at 550 of its 24,700 post offices in its first phase of mutual fund sales. One U.S. firm and two Japanese firms were selected. Other foreign financial firms operating mutual funds in Japan plan to compete for Japan Post distribution in the future.

Under the Program for Further Financial Reform, the Financial Services Agency (FSA) has encouraged more active use of its No Action Letter (NAL) system by publishing in February 2005 “Detail of the No-Action Letter System” (an English-language version of the bylaws of the NAL system) and distributing in June 2005 a detailed questionnaire to the general public (including regulated firms) on the NAL system and suggestions for improvement of the FSA's implementation of the NAL system and its laws and bylaws. The number of NALs published by the FSA increased from six in the April 2003-March 2004 period to nine since April 2004.

The United States welcomes Japan's progress in increasing the efficiency and competitiveness of its financial markets. In its December 2005 Regulatory Reform recommendations, the United States put forward proposals to support further development of the Japanese financial markets, which will allow Japan to take full advantage of international financial expertise and support future Japanese growth. These recommendations include: (1) further expanding the body of written interpretation of financial law through the No-Action Letter process and other means of promoting regulatory transparency in the financial services sector; (2) creating a legal and regulatory framework for a credit bureau system with fair and open access to full-file credit information; (3) putting foreign bank branches on equal footing with domestic banks by allowing them to engage in trust and banking businesses concurrently; (4) harmonizing the regulatory framework governing investment advisory and investment trust management activities and eliminating inconsistencies or duplication; (5) allowing mergers and reducing obstacles to the early termination of investment trusts; (6) increasing defined contribution (DC) pension plan contribution limits; (7) modernizing the legal framework for non-bank consumer and commercial finance to provide a clear basis for the enforceability of loan receivables, and specifically revising the e-Notification Law to include consumer finance lenders; (8) eliminating ambiguity of application of new financial conglomerate regulation; (9) working closely with the private financial services community to review current reporting and record-keeping requirements; and (10) subjecting all financial legislative action to full public notice and comment. These issues will be discussed in March 2006 at the fifth meeting of the U.S.-Japan Financial Services Working Group in Washington, D.C.

ii. Structural Regulatory Reform

Competition Policy: A key goal of our regulatory reform efforts is to ensure that steps to deregulate and introduce competition into Japan's economy are not undone by anticompetitive actions by firms and trade associations resistant to such steps. An active and strong antitrust enforcement policy in Japan is needed to eliminate and deter anticompetitive behavior, including stronger measures to dismantle Japan's bid rigging (dango) system.

Japan took some very important steps in 2005 aimed at strengthening competition in the Japanese market. Most importantly, it enacted amendments to the Antimonopoly Act (AMA) that should substantially strengthen the effectiveness of AMA enforcement. Specifically, the amendments increase the administrative fine (surcharge) for AMA violations by most companies to 10 percent of the sales involved in a conspiracy (up from the current rate of 6 percent), with a further increase of the fine to 15 percent for repeat offenders. In addition, the amendments authorize the Japan Fair Trade Commission (JFTC) to introduce a corporate leniency program, provide the JFTC with criminal investigation powers similar to those already enjoyed by the National Tax Agency, strengthen criminal penalties for interference with JFTC investigations or for non-compliance with JFTC cease and desist orders, and extend the statute of limitations for AMA violations to three years after the conduct stopped. The JFTC announced that it would establish a corporate leniency program effective January 2006 that eliminates administrative fines and criminal penalties for the first company that reports its participation in an unlawful cartel and cooperates in JFTC investigation, and reduces the surcharges for the second and third companies that enter the leniency program.

With regard to measures to strengthen sanctions against bid rigging, in July 2005 the Ministry of Land, Infrastructure and Transport (MLIT) announced additional bid-rigging countermeasures, including expanding the projects subject to open and competitive bidding procedures and strengthening administrative penalties for serious bid-rigging violations. Strengthened penalties include clarification that firms engaged in bid rigging face up to 24-months suspension from bidding and an increase in pre-established damage liability in construction services contracts to 15 percent of the contract price (up from 10 percent). MLIT also began examining the possible introduction of an administrative leniency program to complement the JFTC leniency program.

Transparency and Other Government Practices: Under the Regulatory Reform Initiative, the United States takes up a number of diverse topics that fall within the general category of Transparency and Other Government Practices. Japan's use of its Public Comment Procedure (PCP) has been chief among these topics. In this regard, Japan took a welcome step forward with the Diet's June passage of a government-sponsored bill intended to strengthen the PCP through incorporation in the Administrative Procedure Law. This legislative change aims to compel Japanese Ministries and Agencies to fully consider all submitted comments and to make public the text or summary of all comments.

While the overall effectiveness of these new measures remains unclear, this has been a step in the right direction.

New to the Regulatory Reform Initiative in 2005 were regular discussions on matters relating to agriculture. In particular, the United States and Japan examined the adoption of international regulatory standards in key areas of plant quarantine. These very constructive exchanges are resulting in revised plant quarantine measures in Japan consistent with international standards.

In addition, the November 2005 Report to the Leaders includes progress on Japan's Special Zones for Structural Reform initiative, a local deregulation effort established in 2003. Since the first 57 deregulation zones were created in that year, their number has increased nearly ten fold. As the program grows, Japan continues to put an emphasis on transparency in the zones application process and procedures for implementing the zones. Japan also continues to expand local zone measures nationwide, which is helping the promote deregulation and revitalize the economy.

The 2005 Report to the Leaders also includes measures in several other areas. Japan, for instance, amended regulations to enable sales of certain insurance products through banks beginning in December 2005, with the target of full liberalization after two years. In addition, the Diet passed an amendment in April 2005 that, in principle, begins to bring many unregulated insurance cooperatives (kyosai) under the supervision of financial services regulators.

On the international front, Japan pledged to continue cooperation with the United States to achieve full implementation of APEC Transparency Standards in APEC member nations' domestic legal regimes.

In its December 2005 Regulatory Reform recommendations, the United States urged Japan to implement additional measures to create a more transparent regulatory system including: (1) ensuring and evaluating the effectiveness of recent changes to the PCP; (2) encouraging foreign participation in Special Zones by publishing important zones information in English; (3) continuing to consult with the foreign business community in Japan on translating Japanese laws and ensuring allocation of sufficient resources for timely translations; (4) increasing the transparency of government-sponsored advisory groups and providing meaningful opportunities for input from all interested parties; (5) expanding opportunities for public input into draft legislation; (6) enhancing the effectiveness and increasing the usage of Japan's no-action letter system; (7) securing a level playing field between private companies and all cooperatives (kyosai) that offer insurance; and (8) continuing to take steps to improve plant quarantine procedures.

Privatization: The United States' Regulatory Reform recommendations also continued to place a spotlight on the privatization of public corporations in Japan, including the privatization and reform of Japan Post. The United States welcomed Japan's initiative to reform Japan Post and recognizes that if implemented vigorously, this effort can have a major impact on the Japanese economy, stimulating competition and leading to a more productive use of resources. Following the passage of privatization legislation by Japan's Diet in October 2005, the United States continued to urge Japan to ensure that all necessary measures are taken to fully realize the legislation's principle of establishing equivalent conditions of competition between the Japan Post entities and the private sector and that these efforts are undertaken in a fully transparent manner.

In its December 2005 Regulatory Reform recommendations, the United States recommended that Japan take a number of steps to ensure that a truly level playing field is established between Japan Post (and its successor entities) and other companies in Japan's banking, insurance, and express delivery markets.

These included steps to apply the same tax, supervisory, regulatory, and other obligations to Japan Post as those applied to private sector companies as well as measures to ensure cross-subsidization among the new postal companies does not take place and can be so demonstrated. The United States furthermore continued to urge Japan to ensure that a level playing field is actually created between the postal financial institutions and private financial institutions before the postal financial institutions are permitted to introduce new lending services, underwrite new or altered insurance products, or originate non-principal-guaranteed investment products.

The United States also emphasized the importance of transparency in the reform process, asking Japan to ensure that the process, including with respect to advisory bodies, is made fully transparent and that meaningful opportunities are made available to interested parties to express views before decisions are made. (For a detailed discussion of Japan Post privatization, please see the Insurance section under Bilateral Consultations.)

Legal Services and Judicial System Reform: The creation of a legal environment in Japan that supports regulatory and structural reform and meets the needs of international business is a critical element for Japan's economic health and restructuring. The Japanese legal system must be able to respond to the market's need for the efficient provision of international legal services, and provide a sound and effective foundation for the conduct of business transactions in an increasingly deregulated environment.

In the area of legal services, amendments to the law regulating foreign lawyers (allowing them to enter into partnership arrangements with Japanese lawyers and to hire Japanese lawyers as associates) came into effect on April 1, 2005. The United States has been closely monitoring the adoption of implementing rules by the Japan Federation of Bar Associations from the perspective of ensuring those rules are consistent with both the letter and liberalizing spirit of the 2003 amendments, and Japan’s Ministry of Justice agreed to work toward that outcome. Japan also has agreed to study whether foreign lawyers should be permitted to form professional corporations and to establish multiple branch offices in Japan.

In the area of judicial system reform, Japan enacted legislation in late 2004 to create a government certification system for Alternative Dispute Resolution (ADR) providers. While the United States generally supported Japan’s efforts to strengthen and revitalize ADR, the United States expressed concerns in 2005 that this certification system, although voluntary, could effectively discourage parties from choosing non-certified ADR providers. In response to those concerns, Japan made a number of clarifications that should work to ensure that the new certification system, when implemented in 2007, will allow ADR to develop in Japan in a manner consistent with international norms and practice.

Commercial Law: Reform of Japan's commercial law to permit the use of modern merger techniques is necessary to facilitate merger and acquisition activities by both foreign and domestic firms in Japan. The Japanese economy also will benefit from additional measures to improve corporate governance, since good corporate governance systems encourage increased productivity and economically sound business decisions as management strives to maximize shareholder value. However, good corporate governance requires active shareholder participation, particularly by large institutional investors such as pension funds and mutual funds, and the encouragement of good information flows through effective whistleblower protection measures.

Japan took some important steps in 2005 toward the introduction of modern merger techniques into Japanese law. In June 2005, Japan enacted a corporate code law that, once implemented, will permit domestic and cross-border triangular mergers, cash mergers, and short form (squeeze out) mergers.

Japan also said it was studying the tax treatment of triangular mergers with the intention to adopt an appropriate policy by the times the Corporate Code provisions come into effect.

In the area of strengthening corporate governance, Japan indicated its support for the promotion of proxy voting by managers of public and private pension funds and by mutual fund and investment trust managers. The Ministry of Health, Labor and Welfare undertook to encourage all of its fund managers to disclose their proxy voting policies, as it continues to study whether to require such disclosure, and the Financial Services Agency undertook to encourage the relevant trade association to require members to publicly disclose their actual proxy voting records.

Distribution: The efficiency of Japan's distribution system is hampered by high airport user fees, relatively inefficient and costly customs procedures, low credit card acceptance at traditional merchants and ATMs, burdensome regulations on operators of fleet vehicles, and excessive rules on the activities of private express delivery companies. In addition, at the end of 2005, the Ministry of Land, Infrastructure, and Transportation (MLIT) announced proposals for changes to Japan's city planning laws that would, if enacted, restrict retailers' ability to meet Japanese consumers' needs by opening larger stores offering cheaper and more varied goods.

The November 2005 Fourth Report to the Leaders nevertheless noted a number of steps by Japan intended to have a positive impact on its distribution sector. The United States welcomes the recent reductions in landing fees by Narita International Airport Corporation. Those reductions, however, have been offset in part by higher airport user fees, and Japan's international airports remain among the most expensive in the world. Transparency remains a concern, including with regard to changing operating rules at Haneda Airport and a costly runway extension project at Narita. Another significant measure Japan took over the past year was acknowledging that airport user fees should be determined in accordance with International Civil Aviation Organization principles.

The United States welcomes Japan's efforts over the past year to further promote the secure and widespread use of credit and debit cards, changes that will benefit consumers and provide for a more smoothly operating economy. In the 2005 Fourth Report to Leaders, the government of Japan recognized the importance of maintaining a level of security equivalent to internationally accepted standards in ATM networks for banks in Japan. Japan also established a MIC study group in 2005 to consider issues related to introducing card payment for local government services.

In its 2005 reform recommendations, the United States continued its focus on seeking improvements in Japan's distribution sector. Reform recommendations included urging Japan to: assure transparency in the setting of user fees at Japan's international airports; take additional steps to streamline customs procedures; further increase acceptance of credit and debit cards as payment for goods and services; mandate compliance with international standards for retail banking and ATM security; streamline changing fleet vehicle registrations and registering title transfers; and ensure new regulations or other measures are not implemented that would limit the ability of large-scale retailers to open stores in Japan.

b. Bilateral Consultations

i. Insurance

Consultations under the 1994 and 1996 bilateral insurance agreements traditionally take place on an annual basis. Given the major reforms of Japan Post that Japan's Diet passed in the fourth quarter of 2005, however, consultations have been scheduled for January 2006 to ensure a timely discussion on Japan's implementation of these reforms.

The United States worked with Japan throughout 2005 in other fora, including through the Regulatory Reform Initiative process, to pave the way for progress in key areas.

With respect to Japan's efforts to privatize and reform Japan Post, the United States continued to call for Japan to create a fully level playing field in Japan's insurance market by eliminating the tax, regulatory, supervisory, and other advantages that Japan Post has had over private sector companies. The United States also continued to urge Japan to ensure that a level playing field is actually created between the postal financial institutions and private financial institutions before the postal insurance business is permitted to introduce its own new or altered insurance products. Reforms of Japan Post that the Diet approved in October 2005 are an important opportunity for Japan to address these concerns over the conditions of competition in Japan's insurance market. The United States welcomes this reform effort, including those measures that Japan identified in the Fourth Regulatory Reform Initiative Report to the Leaders that indicate Japan Post will be held to the same tax, regulatory, supervisory, and related standards as those applied to private companies when the privatization process is launched in October 2007. The United States also urged Japan to take additional measures to create a level playing field, including ensuring that adequate measures are taken to prevent cross-subsidization among the new Japan Post entities, providing for independent and consistent supervision and regulation of related Japan Post entities on the same basis as that applied to the private sector, and requiring the new entities to practice full accounting disclosure. The United States is encouraged that the privatization legislation identified the creation of equivalent conditions of competition between Japan Post and private companies as a basic principle and urged Japan to adhere to this principle as the reforms are implemented. The United States also called on Japan to achieve full transparency in the implementation of the reforms.

Japan reformed its insurance policyholder protection system in 2005 with legislation coming into effect that renews the Life and Non-life Policyholder Protection Corporations (PPCs). The United States welcomed efforts made by the Financial Services Agency (FSA) to step-up its monitoring of troubled companies as a positive step to help reduce the potential for reliance on the PPCs. The PPC reforms did not adopt other measures urged by the United States, however, including allowing PPC members to post-fund the system as necessary (following a company failure) instead of continuing to require pre-funding. The United States continued to urge that Japan adopt these and other steps when it next renews the system. The United States also requested that Japan ensure the process of renewing the system is fully transparent and inclusive, including making meaningful opportunities available for private sector parties to express views to related government officials and advisory bodies.

The United States has continued to raise its concerns about Japan's insurance cooperatives (kyosai), particularly as kyosai have been expanding their product range and customer reach. Kyosai are able to compete directly with the private sector, but are not required to meet the same tax, legal, supervisory, and regulatory obligations as private companies.

The United States, therefore, has welcomed initial steps taken by Japan to begin regulation and supervision of kyosai that heretofore were completely unregulated in the marketplace, and urged that these initial steps be strengthened to bring about fully consistent treatment between kyosai and private sector insurance suppliers. With respect to kyosai regulated by ministries and agencies other than the FSA, the United States remains concerned by their continuing expansion in the insurance market and urged the Japanese government to require these kyosai to meet the same regulatory standards and other obligations, including full supervision by the FSA, as those applied to the private sector.

The United States also welcomed initial steps, effective December 2005, to further open the sale of insurance products through banks. The United States continued to urge Japan to augment this step with full liberalization of the bank sales channel by no later than 2007, the timeframe identified by a key government advisory panel.

ii. Government Procurement

Public Works (Design/Construction): U.S. firms remain largely excluded from Japan's massive ($180 billion) public works market, obtaining far less than one percent of projects awarded. A number of Japanese practices inhibit the full involvement of U.S. design and construction firms in this sector, which has become increasingly competitive due to decreases in public works spending. These practices continue despite the existence of the 1994 U.S.-Japan Public Works Agreement, which includes the "Action Plan on Reform of the Bidding and Contracting Procedures for Public Works," under which Japan is obligated to use specified open and competitive procedures for public works procurements valued at or above specified thresholds. The requirements set by these procedures go beyond those called for under the WTO Agreement on Government Procurement (GPA). Problematic practices include rampant bid rigging, use of arbitrary qualification and evaluation criteria that exclude U.S. firms, and unreasonable restrictions on the formation of joint ventures.

During the Expert-Level Meeting on Public Works in 2005 under the U.S.-Japan Trade Forum, the United States urged Japan to eliminate the obstacles that prevent U.S. design and construction companies from full and fair participation in its public works sector. The United States welcomed the first Project Management procurement issued in the history of Japan's public works market. The United States urged Japan to increase the use of Project Management, Construction Management, design architect, and city landscaping procurements for all public works projects and to provide earlier information on Private Finance Initiative and Urban Renewal Projects. The United States also asked Japan to eliminate the three-company joint venture rule (which limits to three the number of members in joint ventures for most construction projects) and to implement more widespread use of mixed-type procurements, which allow companies to decide whether to bid independently or as a joint venture. In addition, the United States urged the Japanese government to ensure that the procurement procedures set forth in the 1988 U.S.-Japan Major Projects Arrangement (MPA) are used for all outstanding MPA projects.

iii. Investment

Japan sustained its efforts to reach the goal set by Prime Minister Koizumi in January 2003 of doubling FDI within five years. FDI relative to GDP, however, remains among the lowest of OECD countries. In June 2005, the Diet amended Japan's Corporate Law to ease the process of foreign investment, including provisions that permit the use of cross-border stock swaps in the context of triangular mergers and other modern merger techniques. Some steps have also been taken to facilitate investment in specific sectors. But progress in improving the environment for foreign investment did not come without some setbacks. Public support for FDI was shaken in the aftermath of a media campaign against a high-visibility takeover attempt, contributing to a delay in implementation of reforms to facilitate cross-border mergers and acquisitions (M&A). Some in the Japanese business community have called for stronger takeover protection mechanisms that could inhibit legitimate M&A activity and undermine efforts to improve corporate governance.

In early 2005 Livedoor, an internet services company, attempted a hostile takeover of Nippon Broadcasting. Although both firms were Japanese, media reports cited the case as exposing the vulnerability of undercapitalized Japanese firms to a perceived threat of hostile takeovers by well capitalized foreign firms.

Partly in response to the Livedoor controversy, the provisions on cross-border M&A will not enter into force until one year after the rest of the new Corporate Law takes effect in May 2006. The decision to postpone triangular merger provisions was portrayed as allowing Japanese firms more time to adopt defensive measures against hostile takeovers, including defenses introduced in the new Corporate Law. The United States welcomed the cross-border merger provisions despite the delay but believes that permitting tax deferral for share swaps by foreign firms will be crucial to their success.

The Ministry of Justice postponed implementing rules for triangular mergers for further consideration in 2006. Some have advocated rules that would allow extreme defensive measures such as golden shares or subject such mergers involving stocks not listed in Japan to an extremely high standard of shareholder approval. The United States has pointed out that cross-border stock swaps are non-hostile transactions and questioned the need for such measures. In November 2005, the Corporate Value Study Group of the Ministry of Economy, Trade and Industry issued new guidelines on takeover defenses calling for caution in adopting golden shares, and the Tokyo Stock Exchange (TSE) took a position against listing firms that issue golden shares which damage shareholder interests.

The Diet also adopted a new measure (Article 821 of the new Corporate Law, replacing Article 482 of the old law) that appears to ban branches of offshore subsidiaries from doing business in Japan. Although the Upper House of the Diet clarified that the provision was not meant to affect legitimate foreign investment, it poses a legal liability for foreign companies of this type. The United States continues to press for an amendment before the changes come into effect in May 2006.

The Investment Initiative meets regularly and presents an annual report to the President and Prime Minister. A working group met in January, May and December 2005 to discuss the issues above related to the new Corporate Law and public perceptions of investment and to look at developments in educational and medical services. The Japanese government initiated a new status for foreign universities' branch campuses in Japan that allows them to sponsor student visas and provides other benefits to students but withholds tax benefits enjoyed by Japanese universities and their students. Three U.S. universities were granted the new status in 2005. The U.S. continues to seek a resolution of the tax issue, as well as relaxation of outdated restrictions on private investment in medical facilities and on outsourcing of medical services.

c. Sectoral Issues

i. Agriculture

Japan slipped from being the United States' second largest export market to its third largest export market (behind Canada and Mexico) for food and agriculture products. Japan maintains many tariff and non-tariff barriers on imports of these products.

Beef: On December 12, 2005, Japan partially reopened its market to U.S. beef after a nearly two-year ban resulting from the December 2003 discovery of a single imported cow with Bovine Spongiform Encephalopathy in Washington State. Achieving this outcome was a top priority of the Administration throughout 2005. With the reopening, the United States is able under a special marketing program to export beef to Japan from cattle 20 months of age and younger. Before the ban, U.S. beef and beef product exports to the Japanese market (the largest export market for U.S. beef) totaled roughly $1.3 billion annually.

The U.S. Government engaged Japan in an intensive, high-level effort to reopen its market, which involved numerous meetings between officials and technical experts from both governments throughout the year. During those exchanges, the United States provided all the necessary data and assurances to the Japanese government and its citizens to demonstrate the safety of U.S. beef. In addition, to further ensure that potentially infected material cannot enter the food chain, the United States continued its enhanced surveillance program of animals and changes it made in the previous year to slaughter and feed processes.

With the December 2005 initial reopening of the Japanese market for beef from cattle 20 months of age or younger, the United States is now urging Japan to take the next step to bring its measures in line with international guidelines of the World Animal Health Organization (OIE) by allowing imports of all ruminant and ruminant products deemed safe. The United States will aggressively work toward achieving this important objective.

Other Sanitary and Phytosanitary (SPS) Measures: Japan's use of sanitary and phytosanitary measures continues to create many barriers to U.S. food and agricultural goods.

One such measure, involving Japan’s import restrictions on U.S. apples was recently examined by a WTO dispute settlement panel and the WTO Appellate Body. The panel and Appellate Body reports concluded these requirements (ostensibly to protect Japanese orchards against fire blight disease), which included inspections of U.S. orchards, were maintained without sufficient scientific evidence and not based on a risk assessment. Japan removed the unjustified fire blight measures in August 2005, paving the way for the resumption of U.S. apple shipments to Japan.

Another example is Japan's fumigation requirement on U.S. fruits and vegetables for cosmopolitan pests, which is imposed despite the fact that these pests are already widely distributed in Japan. The fumigation requirement is particularly detrimental to the quality of these products, many of which do not survive fumigation and must be destroyed. The United States has raised this issue in the WTO Committee on the Sanitary and Phytosanitary Measures as well as in the Regulatory Reform Initiative. As a result, in 2005, Japan removed its fumigation requirements for three citrus pests and committed to reviewing other fumigation requirements, including for lettuce pests, through a scientifically based risk analysis process.

The United States continues to work with Japan to resolve these and other SPS concerns in bilateral and multilateral fora.

Rice: The United States continues to express ongoing concerns over U.S. access to Japan's rice market. Although the United States has supplied about half of Japan's rice import needs since 1995 when it opened its market under its WTO minimum market access agreement, only a minor share of U.S. rice imported under the tariff rate quota (TRQ) is allowed to be sold into the private sector immediately upon entry. In addition, very small quantities are occasionally released from government stocks and eventually permitted to enter the industrial food-processing sector. Since Japan started applying tariffs to rice imports in 1999, only a minuscule amount has been imported outside of the TRQ, because such imports are subject to a duty of 341 yen per kilogram, equivalent to about 1100 percent ad valorem at January 2005 prices and exchange rates.

10. Taiwan

The United States and Taiwan continued to work together to address shortcomings in several areas related to Taiwan's implementation of its WTO commitments in 2005, including ensuring market access for rice and improving intellectual property rights protection. In addition, the United States worked with Taiwan bilaterally to ensure market access for American beef.

a. Beef

Taiwan reimposed its import suspension on U.S. beef in June 2005, after the discovery of a second case of Bovine Spongiform Encephalopathy (BSE) in the United States. Taiwan initially reopened its market to U.S. beef in April 2005, after banning imports of U.S. beef in December 2003 following the detection of the first positive case of BSE in the State of Washington. As of the end of 2005, the U.S. government was working intensively to re-open the market as quickly as possible and, on January 25, 2006, Taiwan lifted its ban on U.S. boneless beef and beef products from cattle less than 30 months of age with labels of approval from the USDA. However Taiwan continued to ban parts including brains, spinal cords, and certain bones because Taiwan's Department of Health considers those products to carry a higher infection risk. Non-ruminant products for feed use, such as tallow, lard, poultry and porcine meal are banned, while limited exceptions have been approved after a thorough case-by-case review or plant clearance process.

b. Rice

In 2005 the United States and Taiwan made substantial progress in resolving outstanding differences on Taiwan's rice procurement arrangements. However, certain other countries that also supply rice to the Taiwan market have not yet agreed to the proposed modifications to Taiwan's rice import system. As a result, Taiwan will continue its current system while working toward final resolution of this issue. Taiwan is a leading Asian market for U.S. rice exports and, despite concerns associated with the rice tender process, U.S. suppliers won a majority of the tenders conducted in 2005. The United States will continue to work with Taiwan and other interested suppliers to the Taiwan market to achieve improvements to the rice import system.

c. Intellectual Property Rights (IPR)

IPR protection continues to be an important issue in the U.S.-Taiwan trade relationship. The U.S. recognizes Taiwan's continuing efforts to take measures to improve enforcement of IPR in 2005, including intensifying raids against manufacturers and retailers. In December 2004, Taiwan was moved from the Special 301 Priority Watch List to the Watch List after an out-of-cycle review determined that Taiwan had made sufficient progress to warrant an improved status. In addition, soon after the results of the out-of-cycle review were announced in January 2005, Taiwan's legislature approved a bill to prevent unfair commercial use of pharmaceutical test data.

Following these improvements, the United States will continue to monitor further developments. Significant among them will be the development of implementing regulations for the protection of pharmaceutical test data by Taiwan authorities. Taiwan also needs to take further effective actions against piracy of copyrighted works over the Internet, and to continue strengthening its enforcement efforts so as to effectively reduce piracy and counterfeiting. The United States will continue to follow closely Taiwan Customs' efforts to stop exports of counterfeit materials in order to ensure that these efforts are as effective as, or more effective than, Taiwan's recently abolished Export Monitoring System.

Internet piracy and illegal peer-to-peer downloading remained serious concerns. To deter Internet piracy, the Taiwan Intellectual Property Office (TIPO) in May 2005 initiated an "implementation plan for strengthening preventive measures against internet infringement." However, efforts to use the legal system to shut down or restrict the activities of such services have met with mixed success. In June 2005, peer-to-peer (P2P) company EzPeer was found not guilty of allowing users to download copyrighted material through their site. However, in September 2005, another popular P2P site, Kuro, was found guilty of the same charge. Rights holder groups have called on Taiwan to further amend the Copyright Law and other regulations to clarify secondary liability of internet service providers and other intermediaries.

In January 2005, Taiwan's legislature approved a bill to provide data protection for pharmaceutical products - a TRIPS commitment and an incentive for innovative pharmaceutical manufacturers to introduce new products into the Taiwan market, but final implementing regulations are still pending. The United States will monitor Taiwan's development of implementing regulations to ensure that Taiwan fulfills its commitments regarding the period of protection.

d. Pharmaceuticals

Pharmaceutical piracy in Taiwan is also a significant concern. The former chief of the Bureau of Pharmaceutical Affairs estimated that 25 percent of all pharmaceuticals sold in Taiwan could be counterfeit. The United States is encouraging Taiwan's Ministry of Justice and the Department of Health to work together to take action to resolve this problem. A continuing concern in the pharmaceutical sector involves pricing, whereby hospitals and doctors in Taiwan buy domestically-manufactured generic drugs at discounted prices and are then disproportionately reimbursed by Taiwan at a fixed higher rate, contrary to regulations requiring that reimbursements be made at the purchase price. This practice benefited local generic manufacturers at the expense of innovative, usually foreign, producers. The United States will continue to work with Taiwan officials and industry to develop ways in which this systemic problem can be addressed. Pharmaceutical pricing issues are exacerbated by the Taiwan health care system, which allows doctors to both prescribe and dispense pharmaceuticals. Research-based pharmaceutical companies see separating these functions as essential to resolving the long-term pricing problem.

In July 2002, Taiwan introduced a "global budget" in selected locations in which hospital reimbursements are capped by the National Health Insurance system. The goal is to increase efficiency and encourage cost-cutting measures. In practice, this has led to increased pressure on pharmaceutical suppliers to provide discounted products.

Despite reports of negative effects on patient care in 2005, Taiwan announced plans to extend the "global budget" to all medical centers in January 2006. This concerns producers of innovative pharmaceuticals and medical devices. The United States is asking Taiwan's Department of Health to reconsider this measure and hopes Taiwan can set its National Health Insurance on a solid financial footing without resorting to measures that unfairly disadvantage American drug manufacturers.

11. Hong Kong (Special Administrative Region)

a. Intellectual Property Rights (IPR)

The Hong Kong government continued to maintain a robust IPR protection regime. Hong Kong's IPR enforcement efforts have helped reduce losses by U.S. companies, but end-user piracy, the rapid growth of peer-to-peer downloading from the Internet, and the illicit importation and transshipment of pirated and counterfeit goods (including optical media and name-brand handbags and apparel from mainland China and elsewhere in the region) are continuing problems. The software industry estimates that Hong Kong's software piracy rate was 52 percent in 2004, placing Hong Kong well above the software piracy rates in other advanced economies and resulting in industry-estimated losses of approximately $116 million to rights-owners.

The Hong Kong government has taken some steps toward addressing each of these problems. In October 2005, in the first successful case of its kind in the world, Hong Kong convicted a man for using BitTorrent file sharing technology to distribute illegally on the Internet three Hollywood movies; he was sentenced to three months imprisonment. The Hong Kong government asserted that the posting of copyrighted materials in Hong Kong using BitTorrent dropped 80 percent in the wake of the man's arrest ten months earlier. Hong Kong Customs routinely seizes IPR infringing products from mainland China. Hong Kong officials have also established a joint task force with copyright industry representatives to track down online pirates using peer-to-peer networks for unauthorized file sharing. However, end-user piracy, Internet piracy, and the cross-boundary flow of infringing products still create significant losses for American companies, and U.S. officials continue to urge Hong Kong authorities to intensify efforts against these problems.

In November 2005, Hong Kong Customs and four local Internet Service Providers (ISPs), along with trade associations and several brand owners, launched a new program called "E-Auctioning with Integrity" to prevent and stop piracy at online auction sites. Under the program, ISPs step up their monitoring of goods auctioned on their sites and remove infringing items when right holders alert the ISPs of suspected infringement. The information is passed on to Hong Kong Customs for investigation.

The U.S. Government continues to monitor the situation to ensure that Hong Kong sustains its IPR protection efforts and addresses problem areas.

b. Beef

Hong Kong banned imports of U.S. beef in December 2003 following a case of Bovine Spongiform Encephalopathy (BSE). After two years of intensive efforts on the part of the U.S. government and industry, the Hong Kong government announced the lifting of the ban, with certain restrictions, in December 2005. It is estimated that the two-year ban cost U.S. exporters approximately $160 million.

12. Sri Lanka

At the beginning of the year Sri Lanka suffered a calamitous disaster. The Tsunami not only killed a huge number of people but destroyed infrastructure, hotels, homes, etc. Fortunately, though, the country's main exports were mainly spared.

Late in the year national elections were held and a new President and government installed. These two major events made it inappropriate to schedule intensive formal trade consultations as has been the practice in recent years. Sri Lanka, with the help of the United States and other countries, had to focus on recovery.

USTR did send an official to Sri Lanka to determine whether trade tools could be employed in the restoration efforts. As a result, the U.S. Generalized System of Preferences was amended to allow for cumulation of the rules of origin for members of the South Asian Association for Regional Cooperation, including Sri Lanka.

13. Iraq

The United States continues to assist Iraq in its efforts to accede to the World Trade Organization. The U.S. Agency for International Development has allocated substantial funds to provide technical assistance for Iraq's WTO accession. A team of experts resides in Iraq and is assisting with the drafting of accession documents and WTO-consistent reform legislation.

Reviving Iraq's economy and creating jobs are essential for Iraq's new democracy to succeed.
The reforms required for WTO membership could have a positive effect on every sector of Iraq's economy.

USTR participated in the meetings of the U.S. – Iraq Joint Commission on Reconstruction and Economic Development. A Trade and Investment Framework Agreement was signed at the July Commission meeting. At the request of Iraq, certain categories of dates were designated as eligible for Generalized System of Preferences benefits.

H. Africa

1. AGOA

The African Growth and Opportunity Act (AGOA), enacted in May 2000 as part of the Trade and Development Act of 2000, is the centerpiece of U.S. trade policy for sub-Saharan Africa. AGOA provides a number of key economic benefits and incentives to promote economic reform and trade expansion in sub-Saharan Africa, including duty-free access to the U.S. market for almost all products made in beneficiary sub-Saharan African countries. The Act also institutionalizes a process for strengthening U.S. trade relations with sub-Saharan African countries by establishing a regular ministerial-level forum with AGOA-eligible countries.

The AGOA Acceleration Act of 2004 ("the Act"), signed into law by President Bush on July 13, 2004, amended several key provisions of AGOA. It extended the authorization of the overall AGOA program from 2008 to 2015 and extended AGOA's special third-country fabric provision by three years, to September 30, 2007. Under this provision, less-developed beneficiary countries are permitted to use regional or third-country fabric in apparel imported into the United States under AGOA, subject to an overall cap. The cap increased in years one and two of the extension and is reduced 50 percent in year three (FY 2007).

The Act amended several technical aspects of AGOA's apparel provisions to allow broader eligibility for products incorporating certain inputs. The Act encouraged the Administration to develop policies that enhance trade capacity, support infrastructure projects and the ecotourism industry and expressed the Sense of Congress that African countries should participate in and support multilateral trade liberalization under the auspices of the WTO. The Act mandated a one-time study to identify competitive export sectors for each AGOA-eligible country, as well as barriers impeding growth in those sectors and recommendations for trade capacity assistance to address the barriers. This study was provided to Congress in July 2005.

AGOA requires the President to determine annually whether sub-Saharan African countries are, or remain, eligible for benefits based on their progress in meeting criteria set out in the Act. These criteria include establishment of a market-based economy and the rule of law, the elimination of barriers to U.S. trade and investment, implementation of economic policies to reduce poverty, the protection of internationally recognized worker rights, and establishment of a system to combat corruption. Additionally, countries cannot engage in: (1) violations of internationally recognized human rights; (2) support for acts of international terrorism; or (3) activities that undermine U.S. national security or foreign policy interests.

An interagency AGOA Implementation Subcommittee, chaired by USTR, conducts the annual eligibility review, drawing on information from the private sector, non-governmental organizations, U.S. government agencies, and prospective beneficiary governments. Following the eligibility review in the fall of 2005 and based on the recommendation of the U.S. Trade Representative, in December 2005 the President signed a Proclamation listing the 37[26] sub-Saharan African countries that meet the Act's requirements for eligibility in 2006. Mauritania was removed from eligibility due to a coup d'etat, which overthrew the democratically elected government. Burundi was determined to have met the eligibility criteria and was designated as a beneficiary country for the first time.

As of December 2005, 24 AGOA-eligible countries had instituted acceptable customs measures to prevent illegal trans-shipment and, accordingly, had been certified for AGOA's textile and apparel benefits.

AGOA establishes a U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum -- informally known as "the AGOA Forum" -- that annually discusses expanding trade and investment relations between the United States and sub-Saharan African countries, and implementation of AGOA. The fourth AGOA Forum was held in July 2005 in Dakar, Senegal. Participants included the Secretaries of State and Agriculture, the Administrator of the U.S. Agency for International Development, the Millennium Challenge Corporation CEO, the U.S. Global AIDs Coordinator, and ministerial-level officials from almost all AGOA-eligible countries. It is expected that the next AGOA Forum will be held in Washington, D.C. in mid-2006.

In 2005, President Bush announced the Africa Global Competitiveness Initiative (AGCI) which will provide an additional $200 million over the next five years for trade-related capacity building. AGCI will help build the capacity of African nations to take advantage of trade opportunities and increase their competitiveness. As part of the Administration's goal to make trade capacity building assistance more accessible, a fourth Trade Competitiveness Hub was opened in Dakar, Senegal in 2005. Other regional trade competitiveness hubs are located in Ghana, Botswana, and Kenya. Experts at the Hub are available to help African countries trade more effectively with each other and with the United States.

AGOA January-November 2005 imports were valued at $34.4 billion, 45 percent more than in the first eleven months of 2004. Top AGOA beneficiary countries included Nigeria, Angola, Gabon, and South Africa followed by Chad, the Republic of Congo, Lesotho, Kenya, and Madagascar.

2. South Africa

The United States and South Africa enjoy a broad and mutually beneficial trade and investment relationship. This relationship has been encouraged by a Trade and Investment Framework Agreement (TIFA) signed in February 1999, the start in June 2003 of free trade agreement negotiations with the Southern African Customs Union (SACU), of which South Africa is a member, and AGOA.

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[26] The list of countries eligible for AGOA and of those that have met requirements for textiles and apparel benefits can be found at http://www.agoa.gov.

Two-way trade increased 8.1 percent in the eleven months of 2005, to $8.7 billion. South Africa is the largest and most diversified supplier of non-fuel AGOA-eligible products. In the first eleven months of 2005, U.S. imports from South Africa under AGOA and related GSP provisions were valued at $1.4 billion with imports of a wide-range of goods, including: minerals and metals, diamonds, agricultural products (including fresh citrus fruits and wines), chemicals, transportation equipment, textiles, and apparel. Leading U.S. exports to South Africa include motor vehicles, aircraft, machinery, and medical equipment. The primary U.S. agricultural export is wheat.

South Africa continues to play an important role in the WTO Doha Development Agenda (DDA) negotiations and it was an active participant at the December 2005 WTO Hong Kong Ministerial meeting. South Africa is a member of the Cairns Group of nations and the G-20 coalition of countries. South Africa and the United States continue to consult closely on issues related to the DDA despite differences on certain issues.

The United States has been the largest single-country source of new foreign investment in South Africa since South Africa's 1994 transition to democracy. There are an estimated 700 U.S. companies (including subsidiaries, joint ventures, local partners, agents, franchises, and representative offices) doing business in South Africa. As with any trade and investment relationship as diverse and vibrant as this one, certain disputes have arisen between the United States and South Africa. These include concerns related to South Africa's December 2000 antidumping order against imports of certain U.S. poultry products, concerns regarding restrictions placed on U.S. exports of soda ash, and ongoing problems related to South Africa's basic telecommunications monopoly, Telkom, and its failure to provide facilities necessary for U.S. value-added network services (VANS) providers to operate and expand.

The United States is seeking clarification about the specifics of South Africa's Black Economic Empowerment (BEE) policies, which are intended to promote the economic empowerment of the historically disadvantaged majority population in South Africa. U.S. companies generally support the objectives of BEE, particularly its emphasis on development and on moving historically disadvantaged people into the mainstream of the national and global economy, but some have expressed concern about the scope and implementation of BEE policies. For example, there are concerns about BEE policies requiring the transfer of equity to historically disadvantaged individuals, particularly among wholly-owned U.S. subsidiaries that have no equity to transfer. U.S. companies have expressed concern as to the details associated with BEE implementation, interpretation, and policy.

Indeed, foreign investors in South Africa have cited the uncertainty of South African policies (BEE and others) as the number one risk of doing business in the country. BEE guidelines for multinationals, released in December 2005 have provided companies with more details and companies will be able to seek further clarification through their comments to the South African government. The United States continued to discuss all of these issues with South Africa in 2005.

3. Nigeria

Nigeria is the United States' largest trading partner in sub-Saharan Africa, based mainly on the large volume of U.S. petroleum imports from Nigeria. Total two-way trade was valued at $22.8 billion in the first eleven months of 2005, a 41 percent increase over the same period in 2004, due to an increase in the value and volume of petroleum imports. Nigerian exports to the United States under AGOA, including it GSP provisions, were valued at $20.1 billion during the first eleven months of 2005, a 43 percent increase over the same period in 2004, due to a surge in oil prices and exports. However, Nigeria is seeking to utilize AGOA to diversify its export base, especially in the area of manufactured goods.

Nigeria became eligible for AGOA's "Category 9" textile and apparel benefits in July 2005, though it has yet to export textile and apparel items under AGOA. The United States is the largest foreign investor in Nigeria.

The United States is working closely with Nigeria, through the United States-Nigeria Trade and Investment Framework Agreement (TIFA) and other initiatives, to promote expanded trade and investment and a more diversified economy. At the last United States-Nigeria TIFA Council meeting in November 2004, the United States and Nigeria pledged to work together on critical issues such as market access, the WTO Doha Development Agenda, AGOA implementation, and trade capacity building. The United States is concerned about Nigeria's use of protective import bans on certain products, including sorghum, millet, wheat flour, rice, meats, bulk vegetable oil, and a range of textiles and apparel products.

4. Ghana

The United States and Ghana strengthened trade relations in 2005. In June 2005, high-level U.S. and Ghanaian-led delegations held the third meeting under the U.S.-Ghana Trade and Investment Framework Agreement (TIFA). This TIFA meeting focused on AGOA and the diversification of the Ghanaian economy, and views were exchanged on key Doha Development Agenda issues. A number of commercial issues have been resolved through the U.S.-Ghana TIFA process, including the resolution of a dispute between the government of Ghana and a U.S. telecommunications company.

Total two-way trade between Ghana and the United States was valued at $448 million in the first eleven months of 2005, a 13 percent increase over the same period in 2004. Ghana is the sixth largest sub-Saharan African market for U.S. goods. The leading U.S. exports to Ghana are machinery, wheat, and motor vehicles. U.S. imports from Ghana are primarily timber, oil, cocoa, and apparel. In the first eleven months of 2005, U.S. imports from Ghana under AGOA, including its GSP provisions, were valued at $55.8 million, a 15 percent decrease over the same period in 2004.

5. COMESA[27]

The Common Market for Eastern and Southern Africa (COMESA) is the largest regional economic organization in Africa, with twenty member states and a population of over 374 million. The United States and COMESA signed a TIFA agreement in 2001 and have subsequently held three TIFA Council meetings, most recently in Washington in June 2005. The session was co-chaired by the Deputy USTR and COMESA Secretary General. Topics discussed included the WTO Doha negotiations, AGOA implementation, sanitary and phytosanitary issues, and trade capacity building. U.S. trade capacity building assistance to COMESA, delivered mainly through USAID's regional mission and the trade capacity building hub in Kenya, has helped COMESA to advance its internal Free Trade Area (in which eleven COMESA countries participate) and to harmonize its Members' policies in telecommunications, services, and investment, as well as to increase trade linkages between the United States and COMESA countries under AGOA. Fourteen COMESA members are AGOA-eligible and nine qualify for textile and apparel benefits. A high-level delegation, including the AUSTR for Africa, attended the COMESA Summit in Kigali, Rwanda in June 2005.

[27] COMESA members are Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

6. UEMOA[28]

The eight-member West African Economic and Monetary Union (known by its French acronym, UEMOA) represents one of the most successful efforts to date toward regional integration in Africa. UEMOA has established a customs union, eliminated internal duties, and is addressing key non-tariff barriers. There is a UEMOA central bank and a regional stock exchange. Six of the eight UEMOA member countries are eligible for AGOA benefits, and four UEMOA countries – Benin, Mali, Niger, and Senegal – are eligible to receive AGOA's textile and apparel benefits.

UEMOA entered into a TIFA with the United States in April 2002. At the most recent TIFA Council meeting in Senegal in July 2005, a high-level interagency U.S. delegation discussed AGOA and export diversification, issues related to the Doha Development Agenda and trade capacity building with a senior UEMOA delegation led by the UEMOA Commission President.

During a November 2005 visit to UEMOA member country Burkina Faso, U.S. Trade Representative Rob Portman discussed issues related to the Doha Development Agenda, including the handling of cotton in these negotiations.

7. Mozambique

In February 2005, the Government of Mozambique ratified the U.S.-Mozambique Bilateral Investment Treaty (BIT) which had been pending since 1998. The United States had ratified the BIT in 1998. The BIT entered into force in March 2005. U.S. Trade Representative Rob Portman and Mozambican Minister of Industry and Commerce Antonio Fernando signed a U.S.-Mozambique Trade and Investment Framework Agreement (TIFA) in July 2005. The TIFA encourages new trade and investment opportunities in both the United States and Mozambique and established a formal mechanism to implement specific strategies to enhance the U.S.-Mozambique trade and investment relationship.

Total two-way trade between Mozambique and the United States was valued at $61 million in the first eleven months of 2005, a 24 percent decrease over the same period in 2004. This decrease was primarily due to a significant drop in U.S. wheat exports to Mozambique. The leading U.S. exports to Mozambique are petroleum coke, wheat, tractors, and soybean oil. U.S. imports from Mozambique are primarily sugar, shrimp, tobacco, and apparel. In the first eleven months of 2005, U.S. imports from Mozambique under AGOA, including its GSP provisions, were valued at $8.3 million, a 9 percent increase over the same period in 2004.

8. Africa and the WTO

Supporting African countries' integration into the global economy is one of the main elements of the Administration's Africa trade policy. An important step toward this end is encouraging fuller participation in the WTO by African Members, including the undertaking of greater commitments under WTO agreements. Accordingly, the United States consults closely with the 38 sub-Saharan African Members of the WTO and provides technical assistance to facilitate African participation in WTO negotiations and agreements.

[28] UEMOA members are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

The United States has provided technical assistance and trade capacity building support on a range of issues such as trade facilitation, services, and sanitary and phytosanitary measures in coordination with the WTO, the World Bank and other international financial institutions, the Integrated Framework, and bilateral assistance largely delivered through the four USAID-managed trade competitiveness hubs in sub-Saharan Africa. The United States also provided technical assistance to two African countries -- Cape Verde and Ethiopia – engaged in the WTO accession process.

WTO issues continued to be a major topic of USTR's engagement with African countries in 2005. Senior USTR officials participated in a wide range of Africa-focused multilateral meetings at which WTO issues were a central focus. In November 2005, USTR Portman and Agriculture Secretary Johanns traveled to Burkina Faso to meet with West African trade and agriculture ministers on the handling of cotton in the Doha negotiations. Deputy USTR Allgeier participated in a WTO mini-ministerial in Nairobi, Kenya in March 2005 and an African Union Trade Ministerial in Cairo in May 2005. Deputy USTR Bhatia attended the G-90 Ministerial in Brussels (most G-90 countries are in Africa). USTR officials also participated in the Least Developed Country (LDC) Ministerial in Lusaka, Zambia in June 2005 and the African Union Trade Ministerial in Arusha, Tanzania in November 2005. In addition, WTO issues were the subject of a special ministerial roundtable at the AGOA Forum in Dakar, Senegal in July 2005.

Issues that figured prominently in U.S.-African discussions on Doha included the three pillars of the agriculture negotiations (domestic support, market access and export subsidies), cotton, the non-agricultural market access negotiations, TRIPS and access to medicines, and the full range of development-related issues, including Aid for Trade and the LDC proposal for duty-free, quota-free market access. The handling of cotton involved particularly high-level engagement. USTR Portman and Deputy USTR Bhatia discussed the issue with the trade and agriculture ministers of the "Cotton-4" countries (Benin, Burkina Faso, Mali, and Chad) on numerous occasions prior to and during the December 2005 Hong Kong Ministerial, including during a November 2005 trip to Burkina Faso. These discussions and intensive engagement with senior African officials in Hong Kong helped lay the basis for the agreement on the treatment of cotton in the Hong Kong Declaration.