



United States International Trade Commission

# **Performance and Accountability Report**

## **Fiscal Year 2005**

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## *Message from the Chairman*

November 15, 2005

I am pleased to present the FY 2005 Performance and Accountability Report for the United States International Trade Commission. The report provides an overview of our fiscal year 2005 financial management and program accomplishments.



The Commission has three important mandates: (1) to administer U.S. trade remedy laws in a fair and objective manner; (2) to provide the President, the United States Trade Representative, and the Congress with independent analysis, information, and support on matters of tariffs, international trade, and U.S. competitiveness; and (3) to maintain the Harmonized Tariff Schedule of the United States. In doing so, the Commission contributes to the development and implementation of sound and informed U.S. trade policy. The Commission carries out these mandates primarily through its import injury investigations, intellectual property-based import investigations, industry and economic analysis program, trade information services, and trade policy support.

For fiscal year 2005, an independent financial audit, monitored by the Office of Inspector General, resulted in an unqualified (clean) opinion for the Commission's financial statements. Improved financial performance is one of the five government-wide initiatives in the President's Management Agenda, and the results of the independent audit are a clear indication that the Commission continues to make the integrity of our financial information, as well as the systems and controls needed to produce the information, a high priority.

In addition, the Commission met the majority of its quantitative performance goals for the fiscal year. Strategic goals and strategies are reviewed annually and are designed to promote the mission of the agency. I would like to highlight the following noteworthy accomplishments for the past year:

- Forty-one import injury investigations were completed. These included antidumping/countervailing duty investigations and reviews, as well as one global safeguard investigation.
- Twenty-eight intellectual property-based import investigations were completed. These complex investigations usually involved products or processes related to telecommunications, pharmaceuticals, or microelectronic devices.
- Twenty-one fact-finding and probable effects investigations were completed. These studies were conducted at the request of the U.S. Trade Representative or the Congress to assess the impact of proposed changes in trade policy and trade negotiations.

As I review these financial and programmatic accomplishments, I can certify with reasonable assurance that the Commission's systems of management control, taken as a whole, are substantially consistent with Section 2 of the Federal Managers' Financial Integrity Act. In addition, I am confident that the Commission's financial and performance information reliably and accurately reflects our efforts to reach our goals.

The Commission's website, which provides comprehensive information about our activities and access to the Harmonized Tariff Schedule, is located on the Internet at <http://www.usitc.gov>. I invite readers of this report to visit our website to learn more about the Commission and its most recent activities.

  
Stephen Koplan  
Chairman



# Management Discussion and Analysis

## **Mission and Organization**

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The United States International Trade Commission (Commission) is an independent, quasi-judicial Federal agency with broad investigative responsibilities on matters of trade. The agency investigates the effects of dumped and subsidized imports on domestic industries and conducts global safeguard investigations. The Commission also adjudicates cases involving alleged infringement by imports of intellectual property rights. Through such proceedings, the agency facilitates a rules-based international trading system. The Commission also serves as a Federal resource where trade data and other trade policy-related information are gathered and analyzed. The information and analysis are provided to the President, the Office of the United States Trade Representative (USTR), and Congress to facilitate the development of sound and informed U.S. trade policy. The Commission makes most of its information and analysis available to the public to promote understanding of international trade issues.

### ***Mission***

The mission of the Commission is to (1) administer U.S. trade remedy laws within its mandate in a fair and objective manner; (2) provide the President, USTR, and Congress with independent analysis, information, and support on matters of tariffs, international trade, and U.S. competitiveness; and (3) maintain the Harmonized Tariff Schedule of the United States (HTS).

The Commission has five major operations that serve its external customers:

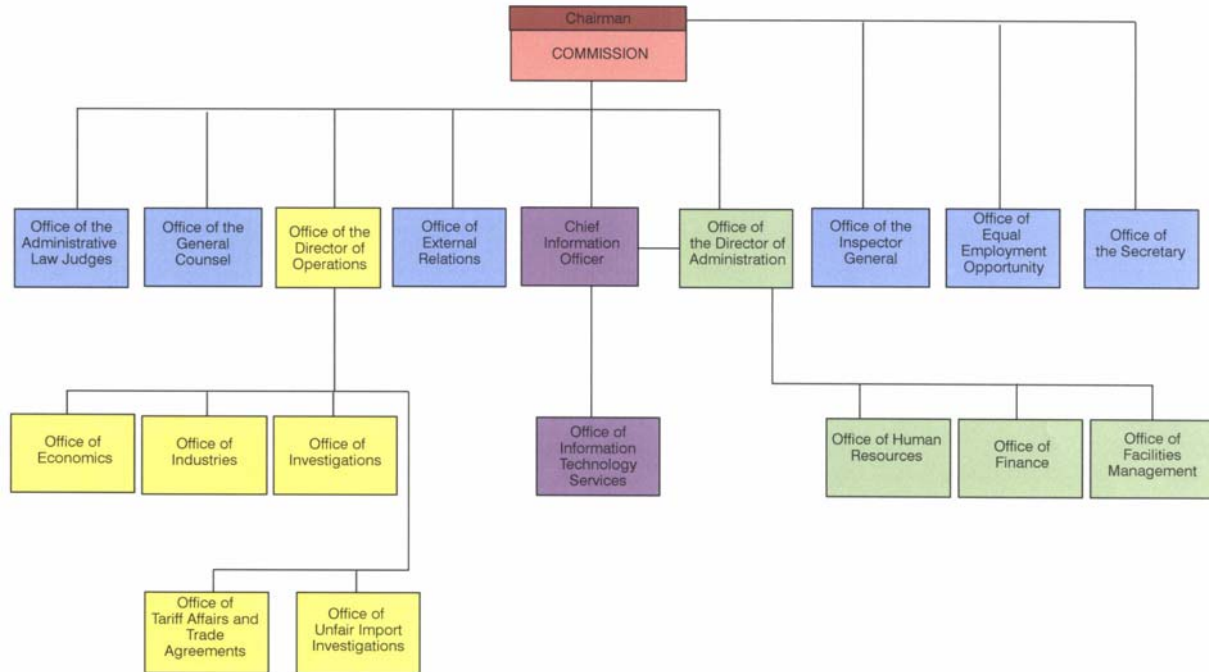
- Import Injury Investigations,
- Intellectual Property-Based Import Investigations,
- Industry and Economic Analysis,
- Trade Information Services, and
- Trade Policy Support.

Import Injury Investigations and Intellectual Property-Based Import Investigations are distinct investigative regimes with specific and detailed procedures provided in authorizing legislation. The Industry and Economic Analysis Program, Trade Information Services, and Trade Policy Support are based upon general authorizing legislation with broad procedural discretion delegated to the Commission. Each of these operations is discussed in greater detail in the Performance Section of this report.

### ***Resources and Location***

As of September 30, 2005, the Commission operated on a budget execution plan of \$62.3 million and a workforce of 382 employees. The Commission is located at 500 E St., SW, Washington, DC 20436.

## Organization



### Commissioners

The six Commissioners are appointed by the President and confirmed by the Senate for terms of nine years, unless appointed to fill an unexpired term. The terms are set by statute and are staggered so that a different term expires every 18 months. A Commissioner who has served for more than five years is ineligible for reappointment. No more than three Commissioners may be members of the same political party. The Chairman and the Vice Chairman are designated by the President and serve for a statutory two-year term. The Chairman may not be of the same political party as the preceding Chairman, nor may the President designate two Commissioners of the same political party as the Chairman and Vice Chairman.

### Office of Operations

The Commission's core of investigative, industry, economic, nomenclature, and technical expertise is found within the Office of Operations. Under the supervision of the Director,

- The Office of Investigations conducts its countervailing duty, antidumping, review, and safeguards investigations to fulfill the Commission's investigative mandates, including those specified in the Tariff Act of 1930, the Trade Act of 1974, the North American Free Trade Agreement Implementation Act of 1994, and the Uruguay Round Agreements Act of 1994;

- The Office of Industries conducts investigations primarily under section 332 of the Tariff Act of 1930, section 131 of the Trade Act of 1974, and section 2104 of the Trade Act of 2002. The Office of Industries maintains technical expertise related to the performance and global competitiveness of U.S. industries and the impact of international trade on those industries for these and title VII, safeguard, and market disruption investigations;
- The Office of Economics conducts investigations primarily under section 332 of the Tariff Act of 1930, section 131 of the Trade Act of 1974, and section 2104 of the Trade Act of 2002. The Office of Economics also provides expert economic analysis for title VII, safeguard, and market disruption investigations, as well as other industry and economic analysis products;
- The Office of Tariff Affairs and Trade Agreements carries out the Commission's responsibilities with respect to the Harmonized Tariff Schedule of the United States and the International Harmonized System; and
- The Office of Unfair Import Investigations participates as a full party representing the public interest in adjudicatory investigations, usually involving patent and trademark infringement, conducted under section 337 of the Tariff Act of 1930.

### **Office of the General Counsel**

The General Counsel serves as the Commission's chief legal advisor. The General Counsel and the staff attorneys provide legal advice and support to the Commissioners and staff on investigations and research studies, prepare briefs and represent the Commission in court and before dispute resolution panels and administrative tribunals, and provide assistance and advice on general administrative matters, including personnel, labor relations, and contract issues.

### **Office of the Administrative Law Judges**

The Commission's Administrative Law Judges (ALJs) hold hearings and make initial determinations in investigations under section 337 of the Tariff Act of 1930. These investigations require formal evidentiary hearings in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.). After the Commission has instituted an investigation, the matter is referred to the Office of the Administrative Law Judges. Cases are assigned on a rotating basis to one of the Commission's four ALJs, who, after an extensive discovery process, holds a hearing. The judge considers the evidentiary record and the arguments of the parties and makes an initial determination, including findings of fact and conclusions of law, which may be reviewed by the Commission. Temporary relief may be granted in certain cases.

### **The Office of the Secretary**

The Office of the Secretary coordinates hearings and meetings of the Commission and is responsible for official record keeping, including petitions, briefs, and other legal documents.



## **Office of External Relations**

The Office of External Relations develops and maintains liaison between the Commission and its diverse external customers. The office is the point for contact with the USTR and other executive branch agencies, Congress, foreign governments, international organizations, the public and the media. The Commission's Trade Remedy Assistance Office, a component of External Relations, assists small businesses seeking benefits or relief under U.S. trade laws.

## **Office of Administration**

The Office of Administration prepares the Commission's budget, manages its financial systems, provides human resource services, including collective bargaining with union representatives, provides procurement and facilities management services, and is responsible for all agency security matters. Component offices include Finance, Facilities Management, and Human Resources.

## **Office of the Chief Information Officer**

The Office of the Chief Information Officer provides information technology leadership, a comprehensive services and applications support portfolio, and a sound technology infrastructure to the Commission and its customers. CIO staff address information technology policy, information security, and provide project management skills. Within the Office of the Chief Information Officer, the Office of Information Technology Services provides services for telecommunications, networking, e-business, publishing and dockets.

## **Office of Equal Employment Opportunity**

The Office of Equal Employment Opportunity (EEO) administers the Commission's affirmative action program. The Director advises the Chairman and Commission managers on all equal employment issues, evaluates the sufficiency of the agency's EEO program and recommends improvements or corrections, including remedial and disciplinary action, establishes and maintains a diversity outreach program, and monitors recruitment activities to ensure fairness in agency hiring practices.

## **Office of Inspector General**

The Inspector General conducts all audits, inspections, and investigations related to the Commission's programs and operations and recommends and comments on proposed legislation, regulations, and procedures that affect the agency's efficiency and effectiveness. The accomplishments of the Inspector General are detailed in semiannual reports submitted to Congress in May and November.

## Overview of Financial Results

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The Commission received an unqualified audit opinion on its fiscal year 2005 financial statements. To accomplish this, the Commission maintained a small, dedicated inhouse staff and used the Department of Interior's National Business Center (NBC) for other accounting services. This efficient and effective arrangement enabled the Commission to act consistently with Federal financial management provisions, including those related to financial management systems, accounting standards, and the U.S. Government Standard General Ledger.

### *Overview of Financial Statements*

- *Summary of the Balance Sheet*

As of September 30, 2005, the Commission's assets totaled \$15.2 million, of which \$10.9 million represented the Commission's fund balance with the Treasury. The Commission's liabilities totaled \$7.4 million, resulting in a net position of \$7.8 million.

- *Summary of the Statement of Net Cost*

The Commission's net cost of operations for the fiscal year was \$61.2 million.

- *Summary of the Statement of Changes in Net Position*

Net position is affected by changes to its two components: cumulative results of operations and unexpended appropriations. The Commission's statement of changes in net position reported a difference between budgetary financing sources and net cost of operations of \$1,046,785.

- *Summary of the Statement of Budgetary Resources*

The statement of budgetary resources reported that the Commission had \$62.3 million in available resources for the fiscal year, of which \$60.1 million had been obligated. Net outlays totaled \$61.2 million.

- *Summary of the Statement of Financing*

The statement of financing shows the relationship between accrual-based (financial accounting) information in the statement of net cost and obligation-based (budgetary accounting) information in the statement of budgetary resources. This reconciliation ensures that the proprietary and budgetary accounts in the financial management system are in balance. For fiscal year 2005, the Commission's statement of financing reconciled the difference between the \$59.4 million in obligated resources and the \$61.2 million in the net cost of operations by adjusting for offsetting collections, financing resources not part of the net cost of operations, depreciation, and annual leave liability.

- *Summary of the Statement of Custodial Activity*

The statement of custodial activity reported \$250 thousand in penalties collected and \$250 thousand in accrual adjustments.

### ***Limitations of Financial Statements***

The Commission's financial statements were prepared in conformity with the hierarchy of accounting principles approved by the Federal Accounting Standards Advisory Board and the Office of Management and Budget Bulletin 01-09, "Form and Content of Agency Financial Statements," plus amendments. They were prepared pursuant to the requirements of Chapter 31 of the United States Code, Section 3515(b). The Commission is fully committed to the principles and objectives of the Chief Financial Officers Act of 1990, the Federal Financial Management Improvement Act of 1996, and the Accountability of Tax Dollars Act of 2002.

Responsibility for the integrity and objectivity of the information presented in the financial statements rests with the Commission's management, which uses additional financial reports, prepared from the same books and records, to monitor and control budgetary resources. The financial statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

## Overview of Performance Results

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The development of annual performance goals and evaluation of results are integral to the process by which the Commission fulfills its mission. This section discusses the relationship of this report to other planning documents, provides an overview of the agency's current Strategic Plan and its FY 2005 performance, and discusses issues related to data verification and validation.

### *Relationship to Other Planning Documents*

In accordance with the Results Act, the Commission issues a Strategic Plan and annual Performance Plans. The Strategic Plan establishes general goals and objectives for the Commission. To enhance the effectiveness of strategic planning and budget development, the Commission has aligned its budget formulation and execution with its Strategic Plan. The annual Performance Plan is combined with the Commission's budget justification for that year to form a performance budget. The current Performance and Accountability Report relates directly to these planning documents. It delineates the extent to which the agency has accomplished the goals established in the FY 2005 Performance Plan and the extent to which the agency has achieved the broader-based goals articulated in the Strategic Plan. The Performance Plan for FY 2005 sets out performance goals and indicators for that year that correspond to the general goals and strategies in the Strategic Plan, and that define the level of performance to be achieved by the agency in the year. The FY 2005 Performance Budget also described briefly the operational processes, skills and technology, and the human capital, information, and other resources required to meet the performance goals.

The agency views information technology and human capital management as essential to fulfilling its mission. As such, the Commission periodically issues an Information Resource Management (IRM) Strategic Plan, in accordance with the Information Technology Management Reform Act of 1996 (Clinger-Cohen Act) and the Paperwork Reduction Act of 1995. The IRM Strategic Plan contains goals and performance measures that relate to the general goals of the current Strategic Plan and facilitate the agency's IRM efforts. The Commission also has prepared a Strategic Human Capital Management Plan, which identifies programs and activities that will further efforts to develop and maintain a workforce with the requisite knowledge and skills to fulfill its mission over the long term.

## ***Overview of the Strategic Plan***

The Commission issued the fifth edition of its Strategic Plan in September 2003 for FYs 2003 – 2008. The Commission has one program activity set forth in the Budget of the United States. The Commission has one strategic goal, which is to effectively conduct five strategic operations:

- Import injury investigations,
- Intellectual property-based import investigations,
- Industry and Economic Analysis,
- Trade information services, and
- Trade policy support.

These Operations define the function of the Commission, emphasizing the benefits that the Commission provides in facilitating an open trading system based on the rule of law and the economic interests of the United States. Within each Operation, the Strategic Plan identifies a general goal and strategies to enable the agency to meet its general goals. The Commission's annual performance goals relate directly to these general goals and strategies.

## ***Performance Results in Brief***

The Performance and Accountability Report describes, for a specific fiscal year, the extent to which the Commission has met the performance goals established in the Performance Plan for that year. The report also discusses any instance in which the agency did not meet a goal and indicates the actions the agency is taking to ensure that goals are met in the future. The current report covers the Commission's performance in FY 2005 and also discusses for comparison purposes the agency's performance in FYs 2001 – 2004.

The Commission established five general goals and 11 strategies for its five operations in the fifth edition of its Strategic Plan. The annual performance goals created for FY 2005 relate closely to performance goals established for previous fiscal years. Where possible, the Commission developed or identified quantitative indicators for these annual goals and for those in ensuing years. In many cases, benchmarks for these indicators were established in FY 1999 and reported in the Commission's Program Performance Report for that year.

In FY 2005, the Commission met or exceeded over 70 percent of the performance goals it set for that year. In particular, performance goals that specified meeting established statutory and administrative deadlines were met. Of note, the Commission's caseload activity associated with import injury investigations and intellectual property-based import investigations increased in FY 2005, compared with FY 2004. The Commission made significant progress in developing analytical methods and data that contributed to various industry and economic analysis reports, as well as to technical assistance provided to the executive branch and Congress. The Commission completed a wide variety of such reports ranging from analyses of specific U.S. industries (e.g., foundries and logistics services) to an assessment of CAFTA. Moreover, the agency continued efforts to enhance its delivery of tariff-related information and assistance to the executive branch, the Congress, as well as the public.

During the year, the Commission's efforts to reach goals associated with making information available to the public electronically met with mixed results. The Commission continued its efforts to tailor the information posted to the agency website to meet the needs of its customers. Notably, the agency completed a major redesign of its website. The re-designed website was made available to the public in early FY 2005. Efforts continued throughout the year to make incremental enhancements. Moreover, the Commission implemented alternative ways to collect and monitor public feedback regarding the overall website, as well as specific sections such as the Industry and Economic Analysis webpage. The survey results provide the agency with valuable benchmarks against which further enhancements can be evaluated. However, the availability of documents filed in official investigations was hampered by continued difficulties encountered in the operation of the agency's electronic document information system (EDIS) throughout FY 2005.

The Performance Section of this report provides a comparison of actual FY 2005 performance to the goals established for that fiscal year and, where appropriate, to baseline measures established in previous fiscal years. The discussion is organized by operation. For each operation, the strategies, corresponding performance goals and indicators, and results are discussed in detail.

Finally, the report identifies each specific goal that was not fully achieved and discusses corrective measures that the Commission has undertaken in response. The Commission believes that the performance data included in this report are both complete and reliable.

### ***Reviews and Evaluations***

The Commission performs a review of the Strategic Plan on an annual basis. This includes an assessment of the agency's general goals and strategies and how well the agency's operations implement and achieve them. In conducting its FY 2005 annual review, the Commission determined that no major revisions to the Strategic Plan were necessary. The Commission has also reviewed the goals in the FY 2006 Performance Plan in light of agency performance in FY 2005, and has determined that generally the performance goals in its FY 2006 Performance Plan are appropriate.<sup>1</sup>

The Commission performs an annual verification and validation of measured performance indicators. For each operation, a senior agency manager serves as Operation Coordinator. Under the general oversight of the Strategic Planning Committee, the Operation Coordinators and Offices supplying the data are responsible for that verification and validation.

The Commission has not conducted formal program evaluations as part of its planning. However, the planning process has benefited from audits and inspections conducted by the agency's Office of Inspector General concerning various aspects of agency operations. Moreover, the Commission has conducted informal evaluations of several of its functions. For example, during FY 2004-2005 the Commission evaluated the effectiveness of the agency's Electronic Document Information System (EDIS). The evaluation led the Commission to

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<sup>1</sup> Adjustments to specific performance goals are discussed below under the respective Operation.

implement significant changes in the hardware and software underpinning EDIS and to substantially realign the agency's docket function, in particular by strengthening the relationship between the docket and information technology staffs. The realignment included a reorganization of the Office of the Chief Information Officer, where the docket function, formerly a service maintained by Office of the Secretary, became the Docket Services Division of the Office of Information Technology Services.

The agency continues to look for opportunities to perform other such evaluations.

## **Management Initiatives – President’s Management Agenda**

The President’s Management Agenda includes five government-wide initiatives intended to improve the quality of its performance and delivery of services to the public: (1) Competitive Sourcing, (2) Improved Financial Performance, (3) Budget and Performance Integration, (4) Expanded Electronic Government, and (5) Strategic Management of Human Capital. The Commission has addressed each initiative with an approach to maximize the agency’s value to the public.

### ***Competitive Sourcing***

The Commission has successfully controlled its operating costs by maximizing the use of competitively awarded service contracts consistent with Federal Acquisition Regulations, the FAIR Act, and OMB Circular A-76. The Commission competitively contracts for information technology services, certain editing and publishing services, mailroom and general labor services, cleaning and building maintenance services, audit and financial services, and security services. More than 10 percent of the regular on-site staff at the Commission consists of private sector contract employees.

In September 2005, the Commission issued its annual, comprehensive list of commercial activities consistent with the FAIR Act. The Commission will continue to evaluate competitive alternatives and efficient service contracting options to maximize efficiency and minimize cost.

### ***Improved Financial Performance***

The Commission received an unqualified opinion on its audited financial statements for Fiscal Years 2005 and 2004. The Commission has a long-established record of prudent fiscal management and cost control. Costs have been contained by significantly reducing staffing levels and office space rental requirements. Staffing levels have declined by 20 percent in the last 10 years. Direct overhead costs (Human Resources, Facilities Management, and Finance) account for less than seven percent of total labor costs, and administrative staffing levels have been reduced by 45 percent since FY 1996.

The Commission has a history of absorbing costs whenever possible and minimizing increases in its appropriation request from year to year. To the extent that some staff increases have been necessary to meet cyclical increases in caseload, virtually all of the increased staff resources consisted of limited-term appointments and internal transfers, rather than increased permanent staff.



## ***Budget and Performance Management Integration***

In FY 2005, the Commission continued to build on its successful program of linking financial resources with strategic goals. Budget execution is structured to permit the allocation of virtually all costs to one of the five operations set forth in the Strategic Plan. Specifically, because personnel costs are more than 72 percent of total costs, the Commission utilizes a labor cost reporting system to attribute resources directly to strategic operations in almost all instances.

The tracking and reporting of costs on the basis of the Commission's Strategic Plan has improved the Commission's resource management program and allows the Commission to relate its expenditures directly to program outputs. This facilitates congressional oversight and ensures that Commission expenditures are tied to performance of the Commission's mission.

<b>Budget and Performance Integration: Percentage of Resources Devoted to Each Operation</b>					
<b>Operation</b>	<b>FY 01</b>	<b>FY 02</b>	<b>FY 03</b>	<b>FY 04</b>	<b>FY 05</b>
Import Injury Investigations	35.0%	29.3%	30.4%	33.8%	32.2%
Intellectual Property-Based Import Investigations	11.1%	14.0%	15.9%	15.7%	17.9%
Industry and Economic Analysis	36.1%	35.6%	35.7%	31.7%	33.4%
Trade Information Services	6.8%	8.4%	6.0%	6.0%	7.6%
Trade Policy Support	5.6%	6.5%	6.9%	6.9%	7.8%
Unallocated Costs	5.5%	6.2%	5.1%	5.9%	1.1%
<b>Notes:</b> (1) The source of the data in this table is the Commission's annual Budget Justification. (2) The percentages include both direct and indirect costs. (3) The data for fiscal year 2005 is based on an estimate from the Commission's fiscal year 2006 Budget Justification. (4) Columns may not total exactly 100.0% as a result of rounding for individual operations. (5) Unallocated costs are not distributed across the five operations and include funding for the Office of Inspector General, certain labor costs, union activities, and certain other nonpersonnel costs.					

## ***Expanded e-Government***

The Commission considers e-Government goals during the initiation phase of every major IT project and in the Commission's investment review process. During FY 2005, the Commission continued its e-Government implementation efforts with further improvements to governance and completed or commenced several e-Government investments.

E-Government service improvements included completion of the EDIS-II project such that the system now serves internal and external customers from a single authoritative database for all Commission investigations. Other improvements included further enhancement of the public

website to include an on-line job application process and a project to establish an internal on-line resume database. Three new e-Government projects were commenced in support of the objectives of the *IRM Strategic Plan*, including: (1) the planning for the FY 2006-2007 migration to a new financial management system; (2) the leveraging of an existing content management system to handle enterprise architecture archiving needs; and (3) the implementation of an Enterprise Portal Project (EPP) to coordinate the development, delivery, search, and control of all web-based content that is currently made available to internal and external customers through various e-Government applications and services across a number of lines of business.

### ***Human Capital Management***

The Commission continues to make progress on implementation of the President's Management Agenda human capital initiative. In partnership with the Office of Personnel Management, the Commission conducted a second workforce survey and was designated "Best in Class" for small agencies in training and development. Work was completed on the USITC Strategic Human Capital Plan which is now being used to make human capital decisions in the agency.

The Commission continues to emphasize performance-based accountability for senior managers as the Commission moves toward implementation of the innovative performance-based pay authorities in the Defense Authorization Act of 2004. During FY 2005, the Commission made significant strides in making meaningful distinctions in performance for both the Senior Executive Service and the staff, and then used those performance assessments to make decisions related to performance-based base pay decisions for the SES and for bonuses at all levels in the agency.

The Commission has made significant progress on the e-Gov initiatives related to human capital management. The Commission has fully implemented the e-Clearance system and therefore processes all requests for investigations through the e-Qip on-line application system. All payroll services are provided by an OPM approved e-Payroll provider (Department of the Interior). The Commission has taken the lead to establish a working group of small agencies to work with OPM to implement an OPM approved e-Learning System that will meet both OPM requirements and the unique requirements of small Federal agencies. The Commission represents small agencies on the Enterprise Human Resources Integration (EHRI) executive steering committee and is working to develop a partnership of the small agencies serviced by the National Business Center to implement EHRI in FY2006. The Commission has implemented the features of Recruitment One-Stop through USA Jobs and is working on a Quickhire implementation to support those efforts and represents small agencies on the HR Line of Business (HRLOB) Requirements Board and HRLOB Share Service Center Advisory Board.

# **Management Controls and Compliance with Laws and Regulations**

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The Commission's senior managers are committed to improving both financial management and performance results. This commitment can be demonstrated, to a great extent, by our efforts to ensure that the Commission is in compliance with applicable laws and regulations designed to improve financial and performance accountability.

## ***Federal Managers' Financial Integrity Act***

The objectives of the Federal Managers' Financial Integrity Act of 1982 (Integrity Act) are to ensure that the Commission's controls and systems provide reasonable assurance that:

- The Commission's obligations and costs are in compliance with applicable laws;
- The Commission's assets are safeguarded against waste, loss, unauthorized use, or misappropriation;
- The revenues and expenditures applicable to the Commission's operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial reports and to maintain accountability over assets; and
- The Commission's programs are efficiently and effectively carried out in accordance with applicable laws and management policy.

The Commission's financial information is audited annually to help ensure that these objectives are being met. Additionally, at the end of each fiscal year management reviews the operating units' performance data to ensure that performance results can be properly supported.

## ***Government Performance and Results Act***

The Government Performance and Results Act of 1993 requires a recurring cycle of performance reporting for Federal agencies. This cycle involves five-year strategic plans, annual performance plans, and annual program performance reports. The Commission's annual performance report is combined with its annual financial statements in this Performance and Accountability Report.

## ***Federal Financial Management Improvement Act***

The Federal Financial Management Improvement Act of 1996 requires certain Federal agencies to report on their compliance with Federal financial management system requirements, Federal accounting standards, and the U.S. Government Standard General Ledger. For fiscal year 2005, the Commission acted substantially consistent with all three aspects of this Act.

## ***Federal Information Security Management Act***

The Federal Information Security Management Act (FISMA), which was passed by Congress and signed into law by the President as part of the Electronic Government Act of 2002, requires each Federal agency to conduct an annual self-assessment of its information technology security program and each agency's Inspector General to perform an annual independent evaluation. In addition, each agency is to develop and implement remediation efforts for identified security weaknesses and vulnerabilities and to report on the agency's compliance.

The Office of Inspector General contracted with an outside firm to perform an independent review during fiscal year 2005 and concluded that the Commission made limited progress in strengthening its information technology (IT) security program during the fiscal year 2005. However, the commendable accomplishments include:

- ✓ Completing a certification and accreditation package for the Data Web Cluster;
- ✓ Performing audits on several systems to evaluate security;
- ✓ Separating operational duties from the duties of the system administrator of the travel management system; and
- ✓ Eliminating the employee's Social Security number as the required user identification for a major application.

The Commission is committed to taking significant further action in order to achieve consistency with U.S. Office of Management and Budget (OMB) Circular A-130, Appendix III *Security of Federal Automated Information Resources* (February, 1996). While the security process is a continuous cycle of evaluating, improving, and monitoring controls of the major IT systems, the Commission has not completed many basic steps towards achieving security over its systems. The OIG identified weaknesses in these areas as early as 2001, but the Commission has been slow in fully implementing the recommendations. Specifically, the Chief Information Officer (CIO) needs to define business continuity and disaster recovery controls; strengthen security planning and program management; enhance access controls; enhance segregation of duty controls; enhance system software controls; enhance change controls; and strengthen controls over background investigations.

The OIG made 23 recommendations to improve the Commission's IT security. The Commission submitted its annual FISMA report to OMB on October 6, 2005.

## ***Accountability of Tax Dollars Act***

The Accountability of Tax Dollars Act of 2002 requires the preparation of financial statements by the Federal agencies that were exempted by the Chief Financial Officers Act of 1990. OMB Bulletin No. 01-09 (September 25, 2001) on the "Form and Content of Agency Financial Statements" requires that each agency's financial statement be combined with its program

performance report into one report, the Performance and Accountability Report. This report meets the requirements of the Act.

### ***Improper Payments Information Act***

The Improper Payments Information Act of 2002 requires an annual review of agency programs and activities that may be susceptible to significant improper payments. OMB's guidance, issued in 2003, requires the inclusion of improper payments information in the Performance and Accountability Report.

The Commission does not administer benefits and assistance payments programs and, thus, does not have any significant problems related to improper payments. Commission payments are tied to payroll and standard nonpersonnel costs such as space rental, travel, training, services, supplies, and equipment. Execution of the Commission's expenditure plan is closely monitored by Commission staff and senior managers, and payment procedures are regularly reviewed by the Office of Finance and the Office of Inspector General.

### ***Prompt Payment Act***

The Prompt Payment Act of 1982, as amended, provides government-wide guidelines for establishing due dates on commercial invoices and provides for interest payment on invoices paid late. During fiscal year 2005, the Commission effectively used electronic fund transfers to minimize the number of late payments resulting in interest penalties of less than \$2,000 with an occurrence rate of less than 2% of invoices.

### ***Inspector General Act***

The 1988 amendments to the Inspector General Act of 1978 (IG Act) established the Commission's Office of Inspector General. The IG, who reports directly to the Chairman, is responsible for overseeing audits, investigations, and inspections of the Commission's programs and operations. The following section summarizes the status of the Commission's corrective action for recent OIG reports.

### ***Summary of Recent Audit Activity***

- *Evaluation of the U.S. International Trade Commission's Fiscal Year 2005 Information Security Program and Practices*, OIG-AR-04-05 (September 27, 2005)

The OIG made 23 recommendations with the goal of improving the Commission's information technology security. The Commission submitted its annual FISMA report to OMB on October 6, 2005.

The Office of Inspector General concluded that the Commission made limited progress in strengthening its information technology (IT) security program during the fiscal year 2005.

Although accomplishments did include: completing a certification and accreditation package for the Data Web Cluster; performing audits on several systems to evaluate security; separating operational duties from the duties of the system administrator of the travel management system; and eliminating the employee's Social Security number as the required user identification for a major application. In 2006, the Chief Information Officer (CIO) will define business continuity and disaster recovery controls; strengthen security planning and program management; enhance access, change, and system software controls; enhance segregation of duty controls; and strengthen controls over background investigations.

### ***Summary of Open Recommendations from Previous Audits***

- *Evaluation of the U.S. International Trade Commission's Discretionary Document and Mail Distribution Program*, OIG-AR-01-04 (May 26, 2004)

The OIG made six recommendations regarding mail distribution that would (1) increase the use of information technology in document distribution, and (2) encourage customers to obtain publicly available information through the website or a CD-ROM. The Commission concurred with the OIG's findings and recommendations, has completed actions on four recommendations, and intends to satisfy the remaining two recommendations by the end of 2005.

- *Evaluation of the Commission's Travel Program*, OIG-AR-03-02 (September 30, 2002)

The Commission agreed with all six recommendations made by the OIG and has completed action on five. Further restrictions on card usage will be evaluated by the Office of Finance under the new service provider.

- *Evaluation of USITC's Records Management*, OIG-AR-05-00 (March 7, 2001)

The Commission agreed with all 22 recommendations made by the OIG, implemented 21, and has initiated corrective action on the remaining recommendation. The reorganization of the Dockets function under the Office of the Chief Information Officer will allow dedication of resources to satisfy the final recommendation.

### ***Summary of Recent Inspection Activity***

During fiscal year 2005, no inspection reports were issued by the Office of Inspector General.



# Financial Section

## **Message from the Director of Administration**

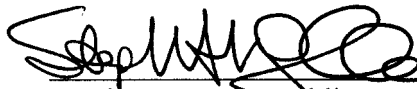
I am pleased to present the United States International Trade Commission's financial statements for fiscal year 2005. The independent accounting firm of O'Connor and Drew, P.C., monitored by the Office of Inspector General, issued an unqualified (clean) opinion on the Commission's statements. The audit report and accompanying letter from the Office of Inspector General precede the audited statements and notes.

In addition, the auditors concluded the following:

- The financial statements were fairly presented, in all material respects and in conformity to U.S. generally accepted accounting principles.
- There were no reportable weaknesses in internal control.
- There were no reportable noncompliance issues related to Federal laws and regulations.

The Office of Finance staff are to be especially commended for their hard work and professionalism that produced a clean opinion two years in a row for the Commission.

During fiscal year 2006, we plan to continue the same high level of financial services that resulted in our unqualified opinion and will focus on further improvements in financial management and internal control activities.



Stephen A. McLaughlin  
Director  
Office of Administration





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UNITED STATES INTERNATIONAL TRADE COMMISSION

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WASHINGTON, DC 20436

November 14, 2005

IG-CC-020

MEMORANDUM

TO: Chairman  
Commissioners  
Director, Office of Administration  
Director, Office of External Relations  
Director, Office of Operations  
Director, Office of Facilities Management  
Secretary  
General Counsel

FROM: Acting Inspector General

A handwritten signature in cursive script, appearing to read "Jean Smith".

SUBJECT: Inspector General's Independent Audit Report of the U.S. International Trade Commission's Financial Statements for Fiscal Years 2005 and 2004 and the Commission's Management Challenges  
Audit Report Number: OIG-AR-01-06

I am pleased to provide you with the attached audit report, which presents an unqualified opinion on the U.S. International Trade Commission's financial statements for fiscal years (FY) ended 2005 and 2004. We engaged the independent public accounting firm of O'Connor & Drew, P.C. to perform the audits. The contract required that the audits be done in accordance with *Government Auditing Standards* and OMB Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

Additionally, as reported in our October 2005 Semiannual Report to the Commission and to the Congress, the Office of Inspector General (OIG) considers the following to be the top management challenges facing the Commission as identified by the OIG—as well as recent OIG activities relating to each challenge:

**Management Challenge: Competitive Sourcing.** The Commission has competitively contracted for information technology services, certain editing and publishing services, mailroom and general labor services, cleaning and building maintenance services, and security services. Private sector contract employees comprise more than 10 percent of on-site personnel. In addition, other services are acquired on an as-needed basis, such as virtually all equipment maintenance services, application systems design and development, and certain audit and financial services.

**Management Challenge: Improved Financial Performance.** In compliance with the Accountability of Tax Dollars Act of 2002, the Commission produced financial statements, notes and a management discussion and analysis for FYs ended 2005 and 2004. The OIG's audit found no material weaknesses or reportable conditions and resulted in an unqualified opinion on the statements. However, we will be making five recommendations to strengthen internal controls related to property, cash, and procurement.

**Management Challenge: Budget and Performance Integration.** The Commission's efforts to link budgeting with strategic planning have allowed Commission managers more effectively to compare changes in workload with changes in cost. Budget formulation and execution activities permit the allocation of virtually all costs to one of the five operations set forth in the Strategic Plan. Specifically, because personnel costs are 75 percent of total costs, the Commission uses the labor cost reporting system to collect work years and cost information and attribute it directly to strategic operations when feasible. In doing so, the Commission is able to determine whether resources are being allocated efficiently. The performance goals and indicators in the Commission's Annual Performance Plan also provide measures by which the agency's activities can be assessed.

**Management Challenge: Expanded Electronic Government.** Agency Inspectors General are to conduct an annual independent evaluation of agency information security programs and practices. Accordingly, we conducted the fifth annual comprehensive audit of the Commission's information security program during this period. Our audit found the Commission made limited progress in strengthening its information security program plan during FY 2005, and we made 23 recommendations for improvement.

**Management Challenge: Strategic Management of Human Capital.** Human capital is the Commission's largest resource, with salaries and personnel benefits representing approximately 75 percent of the FY 2005 budget. The Commission maintains an expert staff of professional international trade and nomenclature analysts, investigators, attorneys, economists, computer specialists and administrative support personnel. More than one third of the Commission's workforce is eligible to retire in the next 5 years. During FY 2005, the Commission enrolled all senior managers in a 48-hour leadership training program provided by the U.S. Office of Personnel Management's Federal Executive Institute.



## INDEPENDENT AUDITORS' REPORT

Office of Inspector General, U.S. International Trade Commission

We have audited the accompanying balance sheets of the United States International Trade Commission (USITC/Commission) as of September 30, 2005 and 2004, and the related statements of net cost, changes in net position, budgetary resources, financing, and custodial activity (hereinafter referred to as the financial statements) for the years then ended. The objective of our audits was to express an opinion on the fair presentation of the financial statements. In connection with our audits, we also considered the Commission's internal control over financial reporting and tested the Commission's compliance with certain provisions of applicable laws and regulations that could have a direct and material effect on its financial statements.

### SUMMARY

We found the following:

- The financial statements referred to above are fairly presented, in all material respects, and in conformity with accounting principles generally accepted in the United States of America,
- The Commission had effective internal control over financial reporting (including safeguarding of assets) and compliance with laws and regulations,
- The Commission's financial management systems substantially complied with the applicable requirements of the Federal Financial Management Improvement Act of 1996 (FFMIA), and
- No reportable noncompliance matters with laws and regulations.

The following sections discuss in more detail (1) these conclusions and our conclusions on Management's Discussion and Analysis and (2) the scope of our audits.

## Opinion on Financial Statements

We have audited the accompanying balance sheets of the Commission as of September 30, 2005 and 2004, and the related statements of net cost, changes in net position, budgetary resources, financing, and custodial activity for the years then ended.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the USITC as of September 30, 2005 and 2004, and its net costs, changes in net position, budgetary resources, reconciliation of net costs to budgetary obligations, and custodial activity for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

Our audits were conducted for the purpose of forming an opinion on the financial statements taken as a whole. The information in the Management Discussion and Analysis section and the Management Challenges identified by the Inspector General are not required components of the financial statements, but are supplementary information required by accounting principles generally accepted in the United States of America or OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

### Internal Control Over Financial Reporting

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. Material weaknesses are conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control and its operation that we considered to be material weaknesses as defined above.

However, we noted other matters involving internal control financial reporting and its operation that we have reported to the management of USITC in a separate restricted use report.

### Compliance with Laws and Regulations

The results of our tests of compliance with other laws and regulations, exclusive of the *Federal Financial Management Improvement Act* (FFMIA), disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*. However, the objective of our audit was not to provide an opinion on overall compliance with laws and regulations. Accordingly, we do not express such an opinion.

## Opinion on FFMIA Compliance

In our opinion, the Commission's financial management systems substantially complied with the three FFMIA requirements: (1) Federal financial management system requirements, (2) Federal accounting standards, and (3) the U.S. Government Standard General Ledger (SGL) at the transaction level, as of September 30, 2005 and 2004.

### Management's Responsibility

The Accountability of Tax Dollars Act of 2002 requires each federal agency to report annually to Congress on its financial status and any other information needed to fairly present its financial position and results of operations. To meet the reporting requirements, the USITC prepares annual financial statements.

Management is responsible for the financial statements, including:

- Preparing the financial statements in conformity with accounting principles generally accepted in the United States of America,
- Establishing and maintaining internal controls over financial reporting, and preparing the Management Discussion and Analysis (including performance measures), and
- Implementing, maintaining, and assessing financial management systems to provide reasonable assurance of substantial compliance with the requirements of FFMIA, and
- Complying with applicable laws and regulations.

In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies. Because of inherent limitations in internal control, misstatements due to error or fraud may nevertheless occur and not be detected.

### **Auditors' Responsibility and Methodology**

Our responsibility is to express an opinion on the fiscal year 2005 and 2004 financial statements of USITC based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, and OMB Bulletin No. 01-02. Those standards and OMB Bulletin No. 01-02 require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management, and
- Evaluating the overall financial statement presentation.

We believe that our audits provide a reasonable basis for our opinion.

In planning and performing our fiscal year 2005 and 2004 audits, we considered the USITC's internal control over financial reporting by obtaining an understanding of the Commission's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 01-02 and *Government Auditing Standards*. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982. The objective of our audits was not to provide assurance on internal control over financial reporting. Consequently, we do not provide an opinion thereon.

As required by OMB Bulletin No. 01-02, with respect to internal control related to performance measures determined by management to be key and reported in the Management Discussion and Analysis, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertion. Our procedures were not designed to provide assurance on internal control over performance measures and, accordingly, we do not provide an opinion thereon.

As part of obtaining reasonable assurance about whether the Commission's fiscal year 2005 and 2004 financial statements are free of material misstatement, we performed tests of the Commission's compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain provisions of other laws and regulations specified in OMB Bulletin No. 01-02, including certain provisions referred to in FFMIA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws and regulations applicable to the Commission. Providing an opinion on compliance with laws and regulations was not an objective of our audits, and, accordingly, we do not express such an opinion.

Under OMB Bulletin No. 01-02 and FFMIA, we are required to report whether the Commission's financial management systems substantially comply with (1) Federal financial management systems requirements, (2) applicable Federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level. To meet this requirement, we performed tests of compliance with FFMIA Section 803(a) requirements.

**Distribution**

This report is intended solely for the information and use of USITC's management, the USITC's Office of the Inspector General, OMB, and the U.S. Congress, and is not intended to be and should not be used by anyone other than these specified parties. However, this report is a matter of public record and its distribution is not limited.

*O'Connor & Drew, P.C.*  
**O'Connor & Drew, P.C.**

**Certified Public Accountants**

October 31, 2005

U.S. International Trade Commission  
Balance Sheets

As of September 30, 2005 and 2004

(In Dollars)

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	<b>2005</b>	<b>2004</b>
<b>Assets:</b>		
Intragovernmental		
Fund Balance with Treasury (Note 3)	\$ 10,866,911	\$ 11,249,689
Accounts Receivable (Note 4)	347,720	-
<b>Total Intragovernmental</b>	<b>11,214,631</b>	<b>11,249,689</b>
Accounts Receivable, Net (Note 5)	501,635	756,981
Prepaid Expenses (Note 6)	208,000	-
Equipment (Note 7)	3,320,719	2,493,449
<b>Total Assets (Note 2)</b>	<b>\$ 15,244,985</b>	<b>\$ 14,500,119</b>
<b>Liabilities:</b>		
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (Note 8)	110,496	91,478
Other (Note 8)	\$ 742,786	\$ 1,003,036
<b>Total Intragovernmental</b>	<b>853,282</b>	<b>1,094,514</b>
Accounts Payable (Note 8)	1,884,026	763,165
Accrued Funded Payroll (Note 8)	1,080,842	941,067
Withholdings Payable (Note 8)	632,593	538,059
Unfunded Leave (Note 8)	2,948,491	2,960,006
<b>Total Liabilities</b>	<b>7,399,234</b>	<b>6,296,811</b>
<b>Net Position:</b>		
Unexpended Appropriations (Note 3)	7,265,523	8,669,865
Cumulative Results of Operations	580,228	(466,557)
<b>Total Net Position</b>	<b>\$ 7,845,751</b>	<b>\$ 8,203,308</b>
<b>Total Liabilities and Net Position</b>	<b>\$ 15,244,985</b>	<b>\$ 14,500,119</b>

**The accompanying notes are an integral part of these financial statements.**



U.S. International Trade Commission  
Statements of Net Cost

For the Years Ended September 30, 2005 and 2004  
(In Dollars)

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	2005	2004
Intragovernmental Costs	\$ 8,182,544	\$ 6,680,990
Costs with the Public	53,066,006	48,034,896
Cost Not Assigned to Programs (Note 10)	(11,516)	40,925
<b>Total Net Cost</b>	<b>\$ 61,237,034</b>	<b>\$ 54,756,811</b>

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**The accompanying notes are an integral part of these financial statements.**

**U.S. International Trade Commission**  
**Statements of Changes In Net Position**

For the Years Ended September 30, 2005 and 2004

(In Dollars)

	2005		2004	
	<u>Cumulative Results of Operations</u>	<u>Unexpended Appropriations</u>	<u>Cumulative Results of Operations</u>	<u>Unexpended Appropriations</u>
<b>Beginning Balances</b>	\$ (466,557)	\$ 8,669,865	\$ (2,728,714)	\$ 5,599,249
<b>Prior Period Adjustment</b> (Note 11)	<u>0</u>	<u>-</u>	<u>2,407,925</u>	<u>-</u>
<b>Beginning Balances, Restated</b>	(466,557)	8,669,865	(320,789)	5,599,249
<b>Budgetary Financing Sources:</b>				
Appropriations Received	-	61,700,000	-	58,295,000
Appropriations-Used	62,279,819	(62,279,819)	54,611,043	(54,611,043)
Other Adjustments		(824,523)	-	(613,341)
<b>Other Financing Sources:</b>				
Other Adjustments	<u>4,000</u>		<u>-</u>	
<b>Total Financing Sources</b>	62,283,819	(1,404,342)	54,611,043	3,070,616
<b>Net Cost of Operations</b>	<u>61,237,034</u>	<u>-</u>	<u>54,756,811</u>	<u>-</u>
<b>Net Change</b>	1,046,785		(145,768)	
<b>Ending Balances</b>	<u>\$ 580,228</u>	<u>\$ 7,265,523</u>	<u>\$ (466,557)</u>	<u>\$ 8,669,865</u>

The accompanying notes are an integral part of these financial statements.

**U.S. International Trade Commission  
Statements of Budgetary Resources**

For the Years Ended September 30, 2005 and 2004

(In Dollars)

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	2005	2004
<b>Budgetary Resources:</b>		
<b>Budget Authority:</b>		
Appropriations Received (Note 1)	\$ 61,700,000	\$ 58,295,000
<b>Unobligated Balance:</b>		
Beginning of Fiscal Year	777,708	375,256
<b>Spending Authority From Offsetting Collections Earned:</b>		
Collected (Note 12)	14,268	14,536
<b>Recoveries of Prior Year Obligations (Note 12)</b>	<b>636,623</b>	<b>685,329</b>
<b>Cancellations of Expired and No Year Accounts (-)</b>	<b>(408)</b>	<b>-</b>
<b>Permanently Not Available Pursuant to Public Law</b>	<b>(824,115)</b>	<b>(613,341)</b>
<b>Total Budgetary Resources</b>	<b>\$ <u>62,304,076</u></b>	<b>\$ <u>58,756,780</u></b>
<b>Status of Budgetary Resources:</b>		
<b>Obligations Incurred – Direct</b>	<b>60,109,360</b>	<b>57,979,072</b>
<b>Unobligated Balance - Available</b>	<b>2,194,716</b>	<b>777,300</b>
<b>Unobligated Balance - Not Available</b>	<b>0</b>	<b>408</b>
<b>Total Status of Budgetary Resources</b>	<b>\$ <u>62,304,076</u></b>	<b>\$ <u>58,756,780</u></b>
<b>Relationship of Obligations to Outlays:</b>		
<b>Obligated Balance, Net, Beginning of Fiscal Year</b>	<b>\$ 10,218,945</b>	<b>\$ 7,045,868</b>
<b>Obligated Balance, Net, End of Fiscal Year:</b>		
Undelivered Orders	5,070,807	7,892,157
Accounts Payable	3,358,603	2,326,788
<b>Total Net Obligated Balance, End of Fiscal Year</b>	<b><u>8,429,410</u></b>	<b><u>10,218,945</u></b>
<b>Outlays:</b>		
Disbursements	61,262,272	54,120,666
Collections	(14,268)	(14,536)
<b>Net Outlays</b>	<b>\$ <u>61,248,004</u></b>	<b>\$ <u>54,106,130</u></b>

**The accompanying notes are an integral part of these financial statements.**

# U.S. International Trade Commission Statements of Financing

for the Years Ended September 30, 2005 and 2004  
(In Dollars)

	2005	2004
<b>Resources Used to Finance Activities:</b>		
Budgetary Resources Obligated:		
Obligations Incurred	\$ 60,109,360	\$ 57,979,072
Less: Spending Authority From Offsetting Collections/Adjustments (Note 12)	<u>650,891</u>	<u>699,865</u>
Net Obligations	59,458,469	57,279,207
<b>Other Resources:</b>		
Other	<u>4,000</u>	-
Net Other Resources Used to Finance Activities	4,000	-
<b>Total Resources Used to Finance Activities</b>	<b>59,462,469</b>	<b>57,279,207</b>
<b>Resources Used to Finance Items Not Part of the Net Cost of Operations:</b>		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits		
Ordered but Not Yet Provided	(2,821,351)	2,668,165
Resources That Finance the Acquisition of Assets	1,362,575	348,094
Resources That Finance the Prepaid Expenses	<u>208,000</u>	-
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	<u>(1,250,776)</u>	<u>3,016,259</u>
<b>Total Resources Used to Finance the Net Cost of     Operations</b>	<b>60,713,245</b>	<b>54,262,948</b>
<b>Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period: Components Requiring or Generating Resources in Future Periods:</b>		
Increase in Annual Leave Liability (Note 13)	(11,516)	40,925
Components Not Requiring or Generating Resources:		
Depreciation and Amortization	<u>535,305</u>	<u>452,938</u>
Total Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period	<u>523,789</u>	<u>493,863</u>
<b>Net Cost of Operations</b>	<b>\$ <u>61,237,034</u></b>	<b>\$ <u>54,756,811</u></b>

**The accompanying notes are an integral part of these financial statements.**

U.S. International Trade Commission  
 Statements of Custodial Activity  
 For the Years Ended September 30, 2005 and 2004  
 (In Dollars)

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	<b>2005</b>	<b>2004</b>
<b>Revenue Activity:</b>		
Cash Collections – Penalties	\$ 250,000	250,000
Accrual Adjustments (+/-)	(250,000)	750,000
<b>Total Custodial Revenue</b> (Note 14)	<b>0</b>	<b>1,000,000</b>
 <b>Disposition of Collections:</b>		
Transferred to Treasury	(250,000)	0
(Increase)/ Decrease in Amounts Yet to be Transferred (+/-)	250,000	(1,000,000)
<b>Net Custodial Activity</b>	<b>\$ 0</b>	<b>0</b>

**The accompanying notes are an integral part of these financial statements.**

## **Notes to Financial Statements September 30, 2005 and 2004**

### **Note 1. Significant Accounting Policies**

- A. *Reporting Entity* – The United States International Trade Commission (USITC) is an independent agency of the U.S. Government created by an act of Congress and is headed by six commissioners, appointed by the President and confirmed by the U.S. Senate for nine-year terms. The President designates the chairman and vice chairman, each of whom serve two-year terms.

The USITC conducts investigations and reports findings relating to imports and the effect of imports on industry, and unfair import practices. The USITC advises the President on the probable economic effect of proposed trade agreements with foreign countries. The USITC also conducts analytical studies and provides reports on issues relating to international trade and economic policy to Congress and the President.

- B. *Basis of Accounting and Presentation* – USITC's financial statements conform to U.S. Generally Accepted Accounting Principles (GAAP) as promulgated by the Federal Accounting Standards Advisory Board (FASAB). The American Institute of Certified Public Accountants (AICPA) recognizes FASAB Standards as GAAP for federal reporting entities. These principles differ from budgetary reporting principles. The differences relate primarily to the capitalization and depreciation of property and equipment, as well as the recognition of other long-term assets and liabilities. The statements were prepared in conformity with OMB Bulletin 01-09, *Form and Content of Agency Financial Statements, as updated by OMB Circular A-136 Financial Reporting Requirements, August 23, 2005*.

The financials have been prepared from the books and records of the USITC and include all accounts of all funds under the control of the USITC. Accounting principles generally accepted in the United States of America encompass both accrual and budgetary transactions. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of federal funds. The accompanying financial statements are prepared on the accrual basis of accounting. The USITC's fiscal year is October 1 through September 30. Fiscal years 2005 and 2004 financial statements are audited to allow comparison.

*Assets* – Intragovernmental assets are those assets that arise from transactions with other federal entities. Funds with the U.S. Treasury composed the majority of intragovernmental assets on USITC's balance sheet.

*Financing Sources* – The USITC has received a no-year appropriation for operations since fiscal year 1993. Appropriations are recognized as revenue and expensed when related operating expenses are incurred. Differences between appropriations received

and expensed are included as unexpended appropriations. Congress appropriated to the USITC \$61,700,000 and \$58,295,000 for salaries and expenses in fiscal years 2005 and 2004, respectively. Congress also rescinded funds in the amount of \$824,115 and \$613,341 for fiscal years 2005 and 2004, respectively.

- C. *Fund Balances with the U.S. Treasury* – Cash receipts and disbursements are processed by the Treasury. Fund balance with the Treasury represents appropriated entity funds in the custody of the U.S. Treasury and is available to pay current liabilities and finance authorized purchase commitments. The USITC’s obligated and unobligated fund balances are carried forward until goods or services are received and payments are made, or until such time as funds are deobligated.
- D. *General Property, Plant, and Equipment* – USITC capitalizes acquisitions with costs exceeding \$50,000 and useful lives of two or more years. Property and equipment consist of equipment and software. Depreciation expense is calculated using the straight-line method over its estimated economic useful life as follows: software, 7 years; and equipment ranges from 5 to 7 years.

Internal use software development and acquisition costs of \$100,000 or more are capitalized as software development in progress until the development stage has been completed and the software successfully tested. Upon completion and testing, software development-in-progress costs are reclassified as internal use software costs and amortized using the straight-line method over the estimated useful life. Purchased commercial software which does not meet the capitalization criteria is expensed.

- E. *Accrued Annual Leave* – Annual leave is accrued quarterly, although it is not funded until it is used by employees. To the extent current and prior-year appropriations are not available to fund annual leave earned but not taken; funding will be obtained from future salaries and expenses appropriations. Sick, compensatory, and certain other types of leave are not accrued and are expensed when used by the employee.
- F. *Net Position* – Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. Cumulative results of operations are the net result of USITC’s operations since inception.
- G. *Intergovernmental Activities* – The USITC records and reports only those Government-wide financial matters for which it is responsible and identifies only those financial matters that the USITC has been granted budget authority and resources to manage.
- H. *Use of Estimates* – The preparation of the accompanying financial statements requires management to make estimates and assumptions about certain estimates included in the financial statements. Actual results will invariably differ from those estimates.

- I. *Tax Status* – USITC, as a federal agency, is not subject to federal, state, or local income taxes and accordingly, no provision for income taxes is recorded.
- J. *Reclassifications* – certain amounts in the 2004 financial statements have been reclassified to conform to the 2005 presentation.

**Note 2. Non-Entity Assets**

	<u>2005</u>		
	<u>Entity</u>	<u>Non-Entity</u>	<u>Total</u>
Intragovernmental:			
Fund balance with Treasury	\$ 10,624,125	\$ 242,786	
Accounts Receivable	<u>347,720</u>	<u>-</u>	
Total intragovernmental	<u>\$ 10,971,845</u>	<u>\$ 242,786</u>	<u>\$ 11,214,631</u>
Accounts receivable	\$ 1,635	\$ 500,000	501,635
Prepaid Expenses	208,000	-	208,000
Plant, property, and equipment	<u>3,320,719</u>	<u>-</u>	<u>3,320,719</u>
Total assets	<u>3,530,354</u>	<u>500,000</u>	<u>4,030,354</u>
 Total assets	 <u>\$ 14,502,199</u>	 <u>\$ 742,786</u>	 <u>\$ 15,244,985</u>
	<u>2004</u>		
	<u>Entity</u>	<u>Non-Entity</u>	<u>Total</u>
Intragovernmental:			
Fund balance with Treasury	\$ 10,996,653	\$ 253,036	
Total intragovernmental	<u>\$ 10,996,653</u>	<u>\$ 253,036</u>	<u>\$ 11,249,689</u>
Accounts receivable	\$ 6,981	\$ 750,000	756,981
Advances to others	-	-	-
Plant, property, and equipment	<u>2,493,449</u>	<u>-</u>	<u>2,493,449</u>
Total assets	<u>2,500,430</u>	<u>750,000</u>	<u>3,250,430</u>
 Total assets	 <u>\$ 13,497,083</u>	 <u>\$ 1,003,036</u>	 <u>\$ 14,500,119</u>

Non-Entity funds include copier fees collected from the public for Freedom of Information Act (FOIA), civil penalty fees, and other collections which will be turned over to the U.S. Treasury and are not available for use by the USITC. Non-entity assets are assets that the USITC holds, but does not have authority to use. A part of the fund balance with Treasury is non-entity and the remaining is entity. Entity assets are those assets which the reporting entity holds and has the authority to use in its operations.



**Note 3. Fund Balances with Treasury**

	<u>2005</u>	<u>2004</u>
A. Fund Balances:		
Appropriated Funds	\$ 10,624,125	\$ 10,996,653
Other Fund Types	<u>242,786</u>	<u>253,036</u>
Total	<u>\$ 10,866,911</u>	<u>\$ 11,249,689</u>
B. Status of Fund Balance with Treasury		
Unobligated Balance		
Available	2,194,716	777,300
Unavailable	-	408
Obligated Balance not yet Disbursed	<u>5,070,807</u>	<u>7,892,157</u>
Total	<u>\$ 7,265,523</u>	<u>\$ 8,669,865</u>

Fund Balances with Treasury is an intragovernmental asset. The entity fund balance represents funds appropriated by Congress for use by the USITC. No entity funds are restricted; however, in accordance with Section 605 of Title 5 of Public Law 105-277, Congressional approval is required under certain reprogramming or transfer actions.

**Note 4. Accounts Receivable, Intragovernmental**

Intragovernmental assets arise from transactions among Federal entities. An overpayment for rent on the USITC leased building resulted in an Intragovernmental Accounts Receivable in the amount of \$347,720 on September 30, 2005. This amount was credited through IPAC in October 2005.

**Note 5. Accounts Receivable, Net**

The balance of funds receivable from USITC employees for the parking program is \$1,635 and \$6,981 on September 30, 2005, and September 30, 2004, respectively.

A civil penalty was imposed by the USITC in the amount of \$1,000,000 in fiscal year 2003. A receivable was set up in fiscal year 2004, and \$250,000 was collected in each fiscal year 2005 and 2004. As a result, there were balances of \$500,000 and \$750,000 on September 30, 2005, and September 30, 2004, respectively.

**Note 6. Prepaid Expenses**

The USITC prepaid for parking spaces for employees for FY 2006. Employees who participate in the parking program reimburse the agency at a subsidized rate. The amount prepaid at September 30, 2005 was \$ 208,000.

**Note 7. General Property, Plant, and Equipment, Net**

Major classes of general property, plant, and equipment include: 1) office furniture, fixtures, and equipment, and 2) information systems and data handling equipment.

Depreciation is recorded annually, at the end of the fiscal year using straight-line method, based on estimated useful lives of seven years and five years, respectively, with a ten percent residual value.

Fiscal Year 2005	Acquisition Value	Accumulated Depreciation	Net Book Value
Office Furniture, Fixtures, and Equipment	\$ 1,438,444	\$ 924,111	\$ 514,333
Software	3,798,083	991,697	2,806,386
	\$ 5,236,527	\$ 1,915,808	\$ 3,320,719

Fiscal Year 2004	Acquisition Value	Accumulated Depreciation	Net Book Value
Office Furniture, Fixtures, and Equipment	\$ 1,223,453	\$ 796,452	\$ 427,001
Software	2,650,499	584,051	2,066,448
	\$ 3,873,952	\$ 1,380,503	\$ 2,493,449

**Note 8. Liabilities Not Covered by Budgetary Resources**

	2005		
	Entity	Non-Entity	Total
Intragovernmental			
Other	\$ -	\$ 742,786	
Total intragovernmental	\$ -	\$ 742,786	
Unfunded Leave	\$ 2,948,491	\$ -	
Total liab. not covered by budgetary	2,948,491	742,786	\$ 3,691,277
Total liab. covered by budgetary	3,707,957	-	3,707,957
Total liabilities	\$ 6,656,448	\$ 742,786	\$ 7,399,234

	<u>2004</u>		
	<u>Entity</u>	<u>Non-Entity</u>	<u>Total</u>
Intragovernmental			
Other	\$ -	\$ 1,003,036	
Total intragovernmental	<u>\$ -</u>	<u>\$ 1,003,036</u>	
Unfunded Leave	\$ 2,960,006	\$ -	
Total liab. not covered by budgetary	2,960,006	1,003,036	\$ 3,963,042
Total liab. covered by budgetary	<u>2,333,769</u>	<u>-</u>	<u>2,333,769</u>
Total liabilities	<u>\$ 5,293,775</u>	<u>\$ 1,003,036</u>	<u>\$ 6,296,811</u>

***Intragovernmental:*** Other liabilities consist of a civil penalty imposed by the USITC which, upon collection, is held in trust for the U.S. Treasury. Other liabilities also include copier fees collected from the public for FOIA and other collections.

***Unfunded Leave:*** Accrued Annual Leave is the value of leave accumulated by USITC employees which is funded when used. The current portion is dependent upon such use and is, therefore, not accurately determinable.

***Liabilities Covered by Budgetary Resources:*** These current liabilities are accounts payable, employer contributions, payroll taxes, accrued funded payroll, withholdings payable, and liabilities payable to the public.

## **Note 9. Contingencies**

USITC has certain claims and lawsuits pending against it. Provision has been made in USITC's financial statements for losses considered probable and estimable. These amounts are considered by management to be immaterial. Management believes that losses, if any, from other claims and lawsuits would not be material to the fair presentation of USITC's financial statements.

## **Note 10. Gross Cost by Budget Functional Classification**

The Statement of Net Cost for USITC uses a Budget Functional Classification (BFC) code. BFC codes are used to classify budget resources presented in the Budget of the United States Government per OMB. The Statement of Net Cost for financial purposes is designed to summarize Intragovernmental Costs, Costs with the Public, and Costs Not Assigned to Programs. The only cost that is included under the section "Costs Not Assigned to Programs" is the decrease in Annual Leave Liability in the amount of \$11,516 and the increase of \$40,925 in fiscal years 2005 and 2004, respectively (see note

13). The total Net Cost was \$61,237,034 and \$54,756,811 at September 30, 2005, and September 30, 2004, respectively.

**Note 11. Prior Period Adjustment**

Prior to fiscal year 2003, many of the EDIS II costs were expensed. All costs were recognized as assets and adjusted accordingly in the software account as a prior period adjustment in 2004. Accumulated depreciation was calculated for all the costs from January 1, 2003 through September 30, 2003. It was recorded as a prior period adjustment included in Cumulative Results of Operations.

In addition, there was an acquisition of equipment which was to be recorded as a capital lease since fiscal year 2000, but the payments were expensed. In fiscal year 2003, the equipment was bought out by USITC. Prior years were adjusted to book the equipment in the asset account and the necessary adjusting entries were made and accumulated depreciation was calculated. A prior period adjustment for fiscal year 2003 was made for the net addition.

Prior year fixed asset additions	\$ 2,908,014
Accumulated depreciation	<u>(500,089)</u>
	<u>\$ 2,407,925</u>

**Note 12. Spending Authority from Offsetting Collections/Adjustments**

Spending authority from offsetting collections consists of refunds of prior year expenditures reported to U.S. Treasury as collections. Adjustments include deobligation of prior year funds.

	<u>2005</u>	<u>2004</u>
Spending authority from offsetting collections	\$ 14,268	\$ 14,536
Recovery of prior year obligations	<u>636,623</u>	<u>685,329</u>
	<u>\$ 650,891</u>	<u>\$ 699,865</u>

**Note 13. Explanation of Differences Between Liabilities Not Covered by Budgetary Resources and Components Requiring or Generating Resources in Future Periods**

This represents the net increase/decrease in accrued annual leave reflected on the balance sheet as a liability not covered by budgetary resources. Costs of this nature are incurred in this reporting period and are a component of net cost of operations. Other liabilities

not covered by budgetary resources are not a part of net cost of operations or obligations incurred and are not reflected on the Statement of Financing.

**Note 14. Non-Exchange Revenue – Custodial Activities**

In fiscal years 2005 and 2004, the USITC functioned in a custodial capacity with respect to revenue transferred or transferable to recipient government entities or the public. These amounts are not reported as revenue to the USITC.

The USITC collects a civil penalty for the United States pursuant to 19 U.S.C. §1337(f)(2) in connection with violations of cease and desist orders. A person who violates a cease and desist order can be assessed a civil penalty of up to \$100,000 for each day on which a violation occurs or up to twice the domestic value of the goods imported or sold in violation of the order. Payments are made to USITC and held temporarily by USITC in a custodial capacity until remitted to the U.S. Department of the Treasury.

A civil penalty was imposed by the USITC for \$1,000,000 in fiscal year 2003. A receivable was set up in fiscal year 2004 and USITC collected \$500,000, of which \$250,000 has been remitted to Treasury. As of September 30, 2005 and 2004, USITC has a long-term receivable of \$500,000 and \$750,000, respectively.



# Performance Section

## Operation 1: Import Injury Investigations

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Operation 1 covers the conduct of the Commission's antidumping (AD) and countervailing duty (CVD) investigations and reviews under Title VII of the Tariff Act of 1930 and global safeguard and market disruption investigations under sections 202, 204, 406, 421, and 422 of the Trade Act of 1974. In addition, the Operation includes activities such as investigations under sections 302 and 312 of the North American Free Trade Agreement (NAFTA) Implementation Act of 1994; investigations under section 129(a)(4) of the Uruguay Round Agreements Act (URAA); and the appellate litigation of challenges to the Commission's determinations.

The Commission's Strategic Plan establishes the following general goal for this operation:

*Facilitate a rules-based international trading system by producing high quality and timely import injury determinations based on:*

- *an effective exchange of information between the Commission and interested persons,*
- *an appropriate investigative record, and*
- *fair and equitably-implemented procedures.*

Operation 1 workload related to new investigations generally declined in FY 2005 compared with the levels experienced in FY 2001 through FY 2004. The number of preliminary phase investigations decreased in FY 2005, although the number of final phase investigations completed remained at normal levels as a significant number of investigations initiated in FY 2004 were completed during FY 2005 (table 1-1).

The decrease in workload related to new case filings in FY 2005 was more than offset by an increase in workload related to five-year "sunset" reviews of outstanding AD and CVD orders, required by the URAA (figure 1-1). This workload is cyclical in nature because of the large number of orders in place before the WTO Agreement entered into force with respect to the United States.

Initial reviews of these "transition" orders were conducted over a three-year transition period running from July 1998 through June 2001. The second round of these transition reviews is being conducted from January 2004 through April 2007, with the heaviest workload occurring in FY 2005 and FY 2006. Unlike in the first round, a significant number of reviews of non-transition orders are being conducted concurrently with the second-round transition reviews. Performance results for FY 2005 are discussed in detail below.

**Table 1–1: Summary of import injury investigations, FY 2001–2005**

Type and status	FY 2001	FY 2002	FY 2003	FY2004	FY2005
<b>Instituted:</b>					
Preliminary Title VII <sup>1</sup>	24	15	17	17	7
Final Title VII <sup>1</sup>	15	15	13	14	7
Expedited Sunset <sup>2</sup>	2	2	0	7	13
Full Sunset <sup>2</sup>	0	3	1	10	21
Other <sup>3</sup>	7	5	9	5	5
<b>Total</b>	<b>48</b>	<b>40</b>	<b>40</b>	<b>53</b>	<b>53</b>
<b>Completed:</b>					
Preliminary Title VII <sup>1</sup>	23	15	19	17	6
Final Title VII <sup>1</sup>	8	17	15	10	15
Expedited Sunset	1	3	1	6	6
Full Sunset	14	0	3	1	10
Other <sup>3</sup>	5	6	8	5	4
<b>Total</b>	<b>51</b>	<b>41</b>	<b>46</b>	<b>39</b>	<b>41</b>

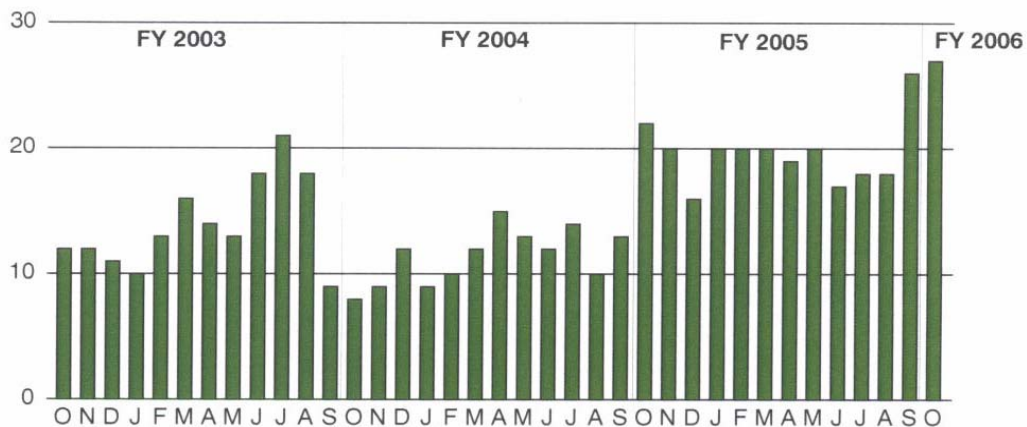
<sup>1</sup> The data shown for preliminary and final phase title VII investigations group AD and CVD investigations together since these investigations generally run concurrently and are handled by the same investigative team.

<sup>2</sup> Does not include investigations that were terminated without a Commission determination.

<sup>3</sup> Includes global safeguard investigations, China safeguard investigations, reopened remands, and other investigations.

Source: Office of Investigations.

**Figure 1-1: Import injury investigations open, by months, for October 2002 through October 2005**



Source: Office of Investigations.



## ***FY 2005 Performance***

The Commission established two strategies and corresponding annual performance goals and performance indicators for this Operation. The performance results for FY 2005, discussed below, demonstrate that the Commission met or exceeded all specific performance goals established for the year with the exception of those related to the speed with which documents are made available for viewing on EDIS. The Commission continues to take steps to correct this shortcoming and improve the system's reliability.

All draft import injury investigation and litigation documents were internally reviewed, and all statutory and administrative deadlines were met or exceeded. Measures were taken to improve methods of collecting and processing investigative data in order to develop more accurate and complete administrative records, and to better provide information to the public. As a result of efforts undertaken to enhance the usefulness of the Commission's website, a redesigned site was made available to the public early in FY 2005.

### **Strategy 1(a): Conduct appropriate internal review of draft investigation and litigation documents**

#### **FY 2005 Performance Goals**

- a. 75% positive response from Commissioners on sufficiency of information in the record.
- b. 100% of draft staff reports circulated for review.
- c. 100% of draft legal issues memoranda, draft opinions, and draft briefs circulated for comment.
- d. 100% of team members participate actively in each opinion meeting and provide timely comments on all opinion drafts, absent compelling reason for non-participation.

#### **Performance Indicator<sup>1</sup>**

- a. Commissioner comments on sufficiency of information in the record (INV/GC).
- b. Draft staff reports to investigative teams and senior staff for review (INV).
- c. Drafts of legal issues memoranda, opinions to teams for comment on factual accuracy and confidentiality, and draft briefs to Commission for comment (GC).
- d. Team participation in opinion-writing process (INV).

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<sup>1</sup> The offices shown in parentheses are the staff offices responsible for measurement.

Commissioners were polled concerning the completeness, reliability, and usefulness of data in all import injury investigations conducted during the year. As in previous years, comments offered were positive, but difficult to quantify.

During FY 2005, all 71 draft prehearing and final staff reports were circulated to investigative teams and senior staff for review and comment. Similarly, all 38 draft legal issues memoranda and all 38 draft opinions were circulated to investigative teams for review. These results compare favorably with those in FY 2001 through FY 2004 (table 1–2).

The FY 2004 Performance Plan made an addition to performance indicator c. under strategy 1(a) to the effect that draft briefs will be circulated to the Commission for comment. The Commission effected this change to reflect the importance of defending import injury determinations during judicial and binational panel appeals. The goal corresponding to this performance indicator specifies that 100 percent of briefs will be circulated. During FY 2005, 20 draft briefs were prepared, and all were circulated to the Commission for comment.

The FY 2004 Performance Plan also added performance indicator d. under strategy 1(a), regarding team participation in the opinion-writing process. The purpose of performance indicator d. was to ensure that Commission opinions benefited to the maximum extent from the specialized expertise that the various team members have to offer. During FY 2005, there was full and active team participation in all opinion writing meetings and in the opinion review process.

**Table 1-2: Number of documents circulated for review, FY 2001–FY 2005<sup>1</sup>**

<b>Item</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
Draft prehearing and final reports	81	59	65	56	71
Draft legal issues memoranda	52	38	40	37	38
Draft opinions	52	38	40	37	38
Draft briefs	--	--	--	29	20

<sup>1</sup> Differences in the number of documents issued by INV and GC may occur because: (1) in some investigations INV normally is tasked with preparing more documents and (2) in some investigations the parallel INV reports and/or GC memoranda/draft opinions may be outside the designated period.

Source: Office of Investigations and Office of the General Counsel.

**Strategy 1(b): Meet statutory and administrative deadlines.**

**FY 2005 Performance Goal**

100% completed on time.

**Performance Indicator<sup>1</sup>**

Reports and determinations (INV) and memoranda and draft opinions issued, and briefs submitted (GC), on time.

<sup>1</sup> The offices shown in parentheses are the staff offices responsible for measurement.

During FY 2005, the Commission met all of its statutory deadlines as all 40 determinations were issued on or, in 10 cases, before their deadlines. Further, with regard to administrative deadlines, all 29 prehearing reports; all 42 staff reports; all 37 legal issues memoranda; and all 38 draft opinions prepared during the year were issued in accordance with established or amended agreed-upon schedules.<sup>2</sup> These results are consistent with those in FY 2001 through FY 2004 as the Commission has met this goal throughout the period (table 1–3).

**Table 1–3: Number of documents issued on time, FY 2001–FY 2005<sup>1</sup>**

Item	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Determinations	57	40	45	39	40
Prehearing reports	28	18	21	16	29
Staff reports	53	41	44	39	42
Legal issues memoranda	52	38	40	35	37
Draft opinions	52	38	40	35	38
Briefs	--	--	--	29	20

<sup>1</sup> Differences in the number of documents issued by INV and GC may occur because: (1) in some investigations INV normally is tasked with preparing more documents and (2) in some investigations the parallel INV reports and/or GC memoranda/draft opinions may be outside the designated period.

Source: Office of Investigations and Office of the General Counsel.

The FY 2004 Performance Plan added to performance indicator a. under strategy 1(b) a provision concerning the timely filing of briefs in litigation. Again, the Commission sought to emphasize the importance of defending import injury determinations during judicial and binational panel appeals. The goal corresponding to this performance indicator specifies that 100

<sup>2</sup> The above does not include documents in certain proceedings where the agency did not establish deadlines.

percent of briefs will be filed on time. During FY 2005, the Commission filed 20 briefs, and all were filed on time.<sup>3</sup>

It should be noted that the number of briefs reported above does not include filings before World Trade Organization dispute resolution panels in cases such as Cement, Softwood Lumber, and Oil Country Tubular Goods during FY 2005.

## **Strategy 2: Effectively develop investigative records and provide information on investigations to participants and the public.**

### **FY 2005 Performance Goals**

- a. Progress is made on improving methods of gathering and processing investigative data.
- b. Web redesign process and semi-annual review of Operation 1 areas of the website and revision completed.
- c. (1) 85% of documents filed electronically are made available on EDIS within 24 hours.  
(2) 90% of public documents filed in paper form are made available on EDIS within 36 hours.  
(3) 85% of confidential documents filed internally in paper form are made available on EDIS within 24 hours.  
(4) Working group meets quarterly to consider and report on issues related to electronic filing and maintenance of records on EDIS.

### **Performance Indicators<sup>1</sup>**

- a. More effective information management methods adopted (INV/SE/OITS/GC).
- b. Review of website and revision of content as appropriate (INV).
- c. Entry of documents into EDIS after filing, and improvements adopted (SE/OITS).

<sup>1</sup> The offices shown in parentheses are the staff offices responsible for measurement.

During FY 2001 – 2005, the Commission had and generally met goals to provide information to participants and the public. The Commission makes a variety of materials related to import injury investigations available in paper form, as well as on its website, in a manner consistent with established guidelines. This information is reviewed and updated regularly. In FY 2005, the Commission updated and published the *Antidumping and Countervailing Duty Handbook* (Blue Book) (Eleventh Edition) (USITC Publication 3750, January 2005) to reflect current Commission policies and procedures in Title VII investigations and reviews, and posted it on the website. In FY 2004, the Commission updated *An Introduction to Administrative Protective*

<sup>3</sup> Time extensions may have been received in connection with some of these filings.

*Order Practice in Import Injury Investigations* (Red Book). The Red Book was made available to the public in FY 2005 (USITC Publication 3755, March 2005). The Commission will review, and update as necessary, the Red Book in FY 2006.

Generic questionnaires used in import injury investigations were examined in detail during FY 2003 and were revised to add questions to address issues that occur on a recurring basis and to eliminate unnecessary or ambiguous questions. Questionnaires used in sunset reviews were examined in detail during FY 2004 and were updated and revised consistent with the changes made to the questionnaires used in Title VII investigations. No further changes were made during FY 2005.

As noted earlier in this report, in FY 2005 the Commission made its newly redesigned website accessible to the public. In connection with this project, substantial efforts were made to expand the content relating to import injury investigations and to improve the ease of navigation through this content. Separate sections of the website are devoted to Title VII investigations and reviews and safeguard investigations. Each section and subordinate pages provide links to publications and other documents of general interest to the public in that particular area, including relevant statutes, the Commission's *Rules of Practice and Procedure*, the Blue Book, the Red Book, Import Injury Investigations Case Statistics, information on outstanding AD and CVD orders, and statutory timetables, as well as links to EDIS, the Sunset Reviews website, and to websites of related government agencies. A major innovation for import injury investigations is the addition of separate pages for each active and recently completed investigation and review. These pages feature scheduling information, contact information for assigned staff, relevant *Federal Register* notices, questionnaires, transcripts, service lists, news releases, public reports including Commission opinions, and other documents that relate to a particular investigation or review. Another addition is a separate information page devoted to the Commission's role under the Continued Dumping and Subsidy Offset Act of 2000 (also known as the "Byrd Amendment").

The current version of EDIS was activated internally in December 2002 and made available to the public in January 2003. The Commission has met the basic goals of providing an electronic option for information exchange between the Commission and the public and real-time access to information and updates via the Internet for both internal and external users. However, documents have not been made available on EDIS as quickly as desired, and until recently, the search and retrieval of documents by users had been slow and cumbersome. To address this last issue, the Commission released an enhanced search tool for EDIS in FY 2005, which provides improved access to public documents, including multiple search options, faster retrieval, and more user-friendly results. Also, during FY 2005, a working group comprising representatives from the Offices of Investigations, Unfair Import Investigations, the General Counsel, the Secretary, and Information Technology Services met quarterly to examine issues related to the processing of documents through EDIS, with a view toward improving the accuracy of investigative records maintained in EDIS and the timeliness of document availability on EDIS.

For some time, the Commission has experienced difficulties meeting timeliness goals regarding the speed with which filings are made available on EDIS. The desire to address this problem

was a major factor in the Commission's decision to realign the docket function within the Office of the Chief Information Officer. Specifically, during FY 2005, this unit, which had previously been part of the Office of the Secretary, became the Dockets Division of the Office of Information Technology Services. The intent of this realignment was to accelerate the transformation of the docket function to a predominantly electronic service. The Commission expects to make significant advances during FY 2006 in the electronic docket through the acceptance of confidential electronic filings. This will benefit both the Commission and document filers by reducing Commission and filer expenses related to processing of paper filings, while providing the Commission with increased quality control by ensuring records are stored as submitted, reducing the potential for record handling errors.

The Commission has also encountered difficulties in collecting meaningful and reliable data regarding the time between the receipt of filings and their availability on EDIS. Although data were collected for approximately one-half of FY 2005 regarding the speed with which new filings were made available to the public on EDIS, the Commission does not have sufficient confidence in those data to rely upon them for purposes of the Performance and Accountability Report, and is concerned that EDIS data reported for prior years are similarly suspect. The Commission believes that the document entry performance goals for EDIS have not yet been met. During FY 2006, the Commission intends to resolve the continuing reporting problem and ensure timely availability of public filings on EDIS. To this end, an advisory group, including representatives of the major internal stakeholders, has been established to monitor performance and to provide feedback on services provided by the new Dockets Division. Starting in the third quarter of FY 2006, the advisory group will begin receiving monthly reports on EDIS performance goals.

In recent years, the Commission has actively sought advice from participants in import injury investigations and other interested persons concerning ways in which it might more effectively interact with the public in executing its statutory responsibilities. On December 4, 2002, the Commission published a notice in the *Federal Register* (67 FR 72221) inviting public comment on specific ways in which it could improve its conduct of AD and CVD duty injury investigations. Based largely on comments submitted by the trade bar, the Commission implemented a number of changes, including earlier and more frequent APO releases in preliminary phase investigations, the addition of opening statements by parties in preliminary phase conferences, and the creation of producer and importer questionnaire checklists to reduce common reporting errors. Also, on November 19, 2003, the Commission published a notice in the *Federal Register* (68 FR 65164) amending its interim rules for investigations relating to alleged market disruption from imports from China, to enhance the agency's ability to conduct such proceedings, and inviting public comment on the amended interim rules.

A survey to obtain feedback from participants in the Commission's import injury investigations has been conducted biannually, beginning in FY 1999. The most recent survey is currently in the comment stage required by the Paperwork Reduction Act and will be issued during calendar year 2005. The survey is sent to approximately 300 firms and individuals on the Secretary's existing mailing lists for Title VII and safeguard investigations. While relatively few firms have responded to these surveys, feedback has been favorable. A number of respondents' suggestions

were implemented in FY 2004, including posting Commission opinions more quickly on the Commission's website, establishing a list of designated contacts for firms that receive import injury questionnaires on a regular basis, and reducing the instances of "double service" of party documents through the APO process. For FY 2005, the Commission streamlined performance goals regarding customer feedback by combining goals on information management and the conduct of surveys.

## Operation 2: Intellectual Property–Based Import Investigations

The Commission adjudicates complaints brought by domestic industries under section 337 of the Tariff Act of 1930 that allege infringement of U.S. intellectual property rights and other unfair methods of competition by imported goods. In doing so, the Commission strives to produce high-quality, detailed analyses of complex legal and technical subject matter and issue determinations that can be successfully defended during judicial appeals.

These investigations are conducted in accordance with the Administrative Procedure Act, which affords the parties the opportunity to conduct discovery, present evidence, and make legal arguments before the ALJs and the Commission. The procedures protect the public interest and provide the parties with timely adjudication of investigations.

The Commission’s Strategic Plan establishes the following general goal for this operation:

*Facilitate a rules-based international trading system by conducting intellectual property-based import investigations in an expeditious and transparent manner and providing for effective relief when it is warranted.*

During FY 2005, 57 Section 337 investigations and ancillary proceedings were active at the Commission. This number includes 25 investigations instituted in FY 2005 based on new complaints of violations of the statute, as well as four ancillary proceedings. The number of investigations active during FY 2005 represents an increase of nearly 30 percent over the number of active investigations in FY 2004, and is more than double the number active in FY 2000. Table 2–1 and figure 2–1 show the workload trends for intellectual property–based import investigations and ancillary proceedings in FY 2005. Performance results for FY 2005 are discussed in detail below.

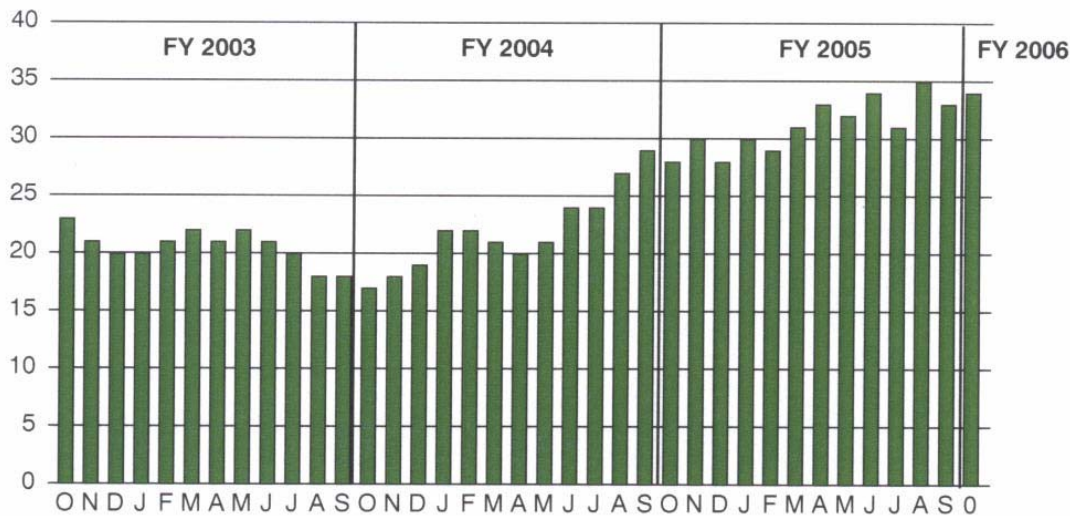
**Table 2–1: Summary of intellectual property–based import investigations and ancillary proceedings, FY 2001–2005**

Status	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Instituted	32	16	21	27	29
Completed	10	26	24	16	28

Source: Office of Unfair Import Investigations.



Figure 2-1: Intellectual property-based import investigations and ancillary proceedings active, by months, for October 2002 through October 2005



Source: Office of Unfair Import Investigations.

### ***FY 2005 Performance***

The Commission established three strategies and corresponding annual performance goals for this operation. Despite the heavy section 337 workload throughout FY 2005, all statutory and key administrative deadlines for section 337 proceedings continued to be met. Moreover, for those investigations that went to a final decision on the merits in FY 2005, the average time required to reach a final decision returned to approximately the level experienced in the three-year period preceding the lifting of statutory time limits by the URAA in December 1994. With regard to ancillary proceedings, the time required to complete an enforcement proceeding substantially exceeded the target time frames set for this type of proceeding. However, a modification proceeding was completed well in advance of the target time frame for this type of proceeding. As previously detailed in the section of this report pertaining to Operation 1, timeliness goals for EDIS were not met in FY 2005. However, to improve EDIS performance, the Commission reorganized the dockets function so that it is now a division within the Office of Information Technology Services, and implemented various system modifications. The Commission also completed a major redesign of its website in the first quarter of FY 2005. The new site contains many additional links and other enhancements intended to benefit public users. With regard to the enforcement of exclusion orders, during FY 2005 the Commission finalized a survey regarding the effectiveness of outstanding exclusion orders. The survey questionnaires were sent out in the fourth quarter of FY 2005, and the responses will be reviewed and analyzed by a Commission working group during FY 2006. During the year, the Commission also initiated discussions with the Intellectual Property Rights Branch of U.S. Customs and Border Protection (CBP) regarding ways to improve communications relating to the enforcement of Section 337 exclusion orders.

**Strategy 1: Meet statutory and key administrative and court deadlines, conclude section 337 investigations expeditiously, and reduce the average time to conclude ancillary proceedings**

**FY 2005 Performance Goals**

- a. 100% of investigations instituted, target dates set, and briefs filed on time.
- b. 100% of final initial determinations (IDs) and final determinations issued on time.
- c. 100% of temporary exclusion order (TEO) IDs and determinations issued on time.
- d. Conclude investigations in time frames that are consistent with the URAA.
- e. Average length of ancillary proceedings is:
  - (1) modification -- 6 mos.
  - (2) advisory -- 12 mos.
  - (3) enforcement -- 12 mos.
  - (4) consolidated ancillaries -- 15 mos.

**Performance Indicators<sup>1</sup>**

- a. Investigations are instituted, and target dates are set, and court briefs are filed, on time. (OUII/GC).
- b. Final IDs and final determinations are issued on their target dates (GC).
- c. In TEO proceedings, TEO IDs and determinations are issued on time (GC).
- d. Length of investigations into alleged Section 337 violations (OUII/GC).
- e. Length of ancillary proceedings (OUII/GC).

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<sup>1</sup>The offices shown in parentheses are the staff offices responsible for measurement.

**Statutory and administrative deadlines**

In FY 2005, the Commission met all statutory and key administrative deadlines. Specifically:

- Deadlines for decisions on institution of investigations were met for all new complaints in FY 2005;
- Deadlines for establishing target dates were met by the administrative law judges in all section 337 investigations instituted in FY 2005;
- Deadlines for filing briefs in court were met in all appeals from Commission determinations in Section 337 investigations during FY 2005;

- Deadlines for issuance of final IDs and target dates for Commission decisions were met for all section 337 investigations completed in FY 2005; and
- The one motion for TEO filed during FY 2005 was withdrawn prior to the deadline for issuance of the TEO ID.

This compares favorably with previous years, particularly given the considerable rise in numbers of active investigations and in related court litigation in FY 2005. In FY 2001, the Commission met all statutory and key administrative deadlines, with the exception of the establishment of a target date in one investigation. In FY 2002 and 2003, the Commission met all statutory and key administrative deadlines. In FY 2004, all deadlines were met again, with the exception of the establishment of target dates in two investigations.

### Length of investigations

The 12 to 18 month time limits that had been specifically included in Sec. 337 for completion of investigations were removed from the statute by the URAA. However, in accordance with the amended statute, the Commission has sought to continue to complete these investigations as expeditiously as possible. Between January 1, 1992 and December 31, 1994 (the three-year period before statutory time limits were removed by the URAA), the average time for completion of an investigation was 13.5 months for investigations in which the Commission rendered a final decision on the merits of the existence of a violation.

Table 2–2 provides summary information regarding the length of investigations during FY 2001 – 2005. Although completion times have varied over the five-year period, the average time for completion has been at or below approximately 14.0 months in all but two of these years.

**Table 2–2: Length of investigations, FY 2001 – 2005**

Fiscal Year	Investigations Completed <sup>1</sup>	Completion Time (in months)		
		Shortest	Longest	Average
2001	4 (1 instituted in 1999, 1 in 2000, 2 in 2001)	6.0	13.0	8.8
2002	8 (2 instituted in 2000, 6 in 2001)	12.0	18.0	14.8
2003	10 (3 instituted in 2001, 3 in 2002, 4 in 2003)	5.0	19.0	11.2
2004	10 (2 instituted in 2002, 7 in 2003, 1 in 2004)	6.0	24.0	14.9
2005	12 (3 instituted in 2003, 9 in 2004)	10.0	19.0	14.1

<sup>1</sup> Investigations in which the Commission rendered a final decision on the merits of the existence of a violation. Thus, these data do not include, for example, cases which settled before a final decision.

Source: Office of Unfair Import Investigations.

During the five-year period shown in table 2-2, the Commission’s caseload was significantly higher than in previous years. The number of new section 337 investigations and ancillary

proceedings instituted in FY 2001 was more than two and one-half times the number instituted in FY 2000. The average length of investigations in which the Commission reached a final decision on the merits in FY 2001 was relatively short, however, because few investigations were decided on the merits that year and all but one of these were based upon motions granted prior to trial. During FY 2002, the Commission hired a fourth administrative law judge to insure the continued expeditious resolution of these investigations.

Despite the continued heavy workload, for those investigations that went to a final decision on the merits in FY 2005, on average, the Commission reached a final decision in 13.7 months, just slightly above the 13.5 month average for the three-year period preceding the lifting of statutory time limits by the URAA. However, if the four investigations where the remaining respondents defaulted are removed from the calculation, the average length of investigations concluded in FY 2005 was 15.0 months.

Targets dates set for new investigations that commenced during FY 2005 ranged from 12 to 15 months, with an average of 13.4 months. However, during FY 2005, target dates set in five investigations commenced in FY 2004 were extended beyond 15 months.

### **Length of ancillary proceedings**

The ancillary proceedings that are the focus of this performance goal are advisory opinion, modification, and enforcement proceedings.

The Commission commenced two ancillary proceedings in FY 2001, an exclusion order modification proceeding and a consolidated enforcement and advisory opinion proceeding. The Commission completed the exclusion order modification proceeding in FY 2002. This proceeding was concluded in 14 months and, thus, took twice as long to complete as the FY 2002 goal for completing modification proceedings, which was seven months. However, this modification proceeding was self-initiated by the Commission and resulted in the partial vacatur of an exclusion order that had been outstanding since 1983. Moreover, work on the modification proceeding was delayed several times by the necessity to work on more pressing matters. It is believed that the 14 months required to complete this modification proceeding is anomalous.

A consolidated enforcement and advisory proceeding that was begun in FY 2001 was completed in FY 2003. This ancillary proceeding required 23 months to complete, and thus exceeded both the performance goal for completing enforcement proceedings and the goal for completing advisory opinion proceedings. Three factors led to the extended length of this proceeding. First, the hybrid nature of the proceeding added to its complexity. Second, the proceeding was remanded to the presiding administrative law judge for several months for reconsideration of the issue of infringement in light of an intervening Supreme Court decision. And third, the parties to this proceeding proved to be unusually litigious. At the end of FY 2003, the enforcement proceeding commenced in FY 2002 and an advisory opinion proceeding commenced earlier in the year were pending.

The Commission did not commence any ancillary proceedings during FY 2004. The Commission concluded an advisory opinion proceeding that was commenced in FY 2003. This proceeding was completed in 6.8 months, significantly less time than the 11 month goal for completing advisory opinion proceedings.

With the marked rise in the Section 337 caseload that began in FY 2001, it has become increasingly difficult to reduce the length of ancillary proceedings without delaying the resolution of new investigations, which the Commission is required to complete at the earliest practicable time. Given current and projected Section 337 caseload, the feasibility of the goals established for completion of ancillary proceedings was reassessed during FY 2004, and certain of those goals were modified for FY 2005 and 2006. Specifically, while the 6-month goal remained for modification proceedings, a 12-month goal was set for both advisory opinion and enforcement proceedings, and a 15-month goal was established for consolidated ancillary proceedings, such as those that involve advisory opinion or modification proceedings, as well as enforcement proceedings.

The Commission concluded two enforcement proceedings during FY 2005. One of these proceedings, which had been pending for twenty-seven months, was complicated by a suspension of the proceedings for more than 3 months in view of the severe acute respiratory syndrome (SARS) epidemic in areas of China where discovery had to be completed, as well as the exceptionally litigious natures of the parties. The other enforcement proceeding, which was instituted and concluded in FY 2005, was completed nine months after institution and three months before the target date for completion of this type of proceeding. A consolidated enforcement and advisory opinion proceeding, also instituted in FY 2005, remains pending.

**Strategy 2: Effectively provide information regarding investigations to the public as well as to investigative participants**

**FY 2005 Performance Goals**

- a. Web redesign and semi-annual review and revision completed.
- b. (1) 85% of documents filed electronically are made available on EDIS within 24 hours.  
(2) 90% of public documents, except trial exhibits, filed in paper form are made available to the public on EDIS within 36 hours.  
(3) Working group meets quarterly to consider and report on issues related to electronic filing and maintenance of records on EDIS.

**Performance Indicators<sup>1</sup>**

- a. Review of website and revision of content as appropriate (OUII/GC).
- b. Prompt entry of documents into EDIS after filing, and improvements adopted (SE).

<sup>1</sup> The offices shown in parentheses are the staff offices responsible for measurement.

**Review of website**

During the past five years, the Commission has conducted regular reviews of its website and has added substantially to its Section 337 Resources web page. Enhancements include regular updates to the Section 337 Investigational History Database and revisions to the Section 337 Frequently Asked Questions (FAQs) pamphlet.

During FY 2005, a redesign of the Commission's website was completed and the new site was rolled out to the public on October 29, 2004. The redesigned site was fashioned to provide improved usability, navigation, and search capabilities. The Section 337 Resources page was substantially overhauled as part of this effort, and links to the Intellectual Property Rights Branch of U.S. CBP and the Commission's 337-related Notices were added. As in prior years, the Section 337 Investigational History database was regularly updated and supplemented. A new field containing citations to related court decisions was added to the database to facilitate research regarding Section 337 matters at no additional cost to public users. Also, in response to requests from private practitioners, OSE and OCIO collected and imaged more than 150 publications containing Section 337 decisions, many of which pre-date the Commission's EDIS system, and made the publications available for downloading by the public from the Commission's website.

**Document entry**

Operations 1 and 2 contain similar performance goals relating to the Commission's EDIS system. As noted in the earlier discussion of Operation 1, the Commission has met the basic goals of providing an electronic option for information exchange between the Commission and the public and real-time access to information and updates via the Internet. However, documents have not been made available on EDIS as quickly as desired, the Commission has encountered difficulties in capturing the data needed to accurately measure the time between the receipt of filings and their availability on EDIS, and the search and retrieval of documents by users had been slow and cumbersome.

During FY 2005, to improve performance relating to the document entry function and facilitate the transformation of this function to a predominantly electronic service, the dockets unit, which had been part of the Office of the Secretary, was realigned within the Office of the Chief Information Office and became the Dockets Division of the Office of Information Technology Services. Also, as called for by Performance Plan, a Commission working group met quarterly during the year to examine issues relating to the processing of documents through EDIS. With regard to search and retrieval, during FY 2005, the Commission released an enhanced search tool for EDIS, which provides multiple search options, faster retrieval, and more user-friendly result. With regard to the collection of data on the speed with which new filings were made available to the public on EDIS, although data were collected for a portion of FY 2005, the Commission does not have sufficient confidence in that data to rely upon it for purposes of the Performance Report, and believes that the document entry performance goals for EDIS have not been met.

The Commission expects to make significant advances during FY 2006 in the electronic docket through the acceptance of electronic confidential filings. During FY 2006, the Commission also intends to resolve the continuing reporting problem and ensure timely availability of public filings on EDIS. To this end, a newly established internal advisory group will provide feedback on services provided by the new Dockets Division, and by the third quarter of FY 2006, this group will begin receiving monthly reports on the speed with which new filings are being made available on EDIS.

### **Strategy 3: Actively facilitate enforcement of exclusion orders**

#### **FY 2005 Performance Goals**

- a. Issue seizure and forfeiture orders approximately 30 days after the time has run for filing a protest with Customs.
- b. (1) Conduct survey regarding effectiveness of outstanding exclusion orders.  
(2) Enforcement working group meets semi-annually to discuss remedy issues, and analyze survey regarding effectiveness of outstanding exclusion orders.

#### **Performance Indicators<sup>1</sup>**

- a. Timely seizure and forfeiture notices resulting from Customs letters (GC).
- b. Improve communications regarding enforcement of remedial orders (OUII/GC).

<sup>1</sup>The offices shown in parentheses are the staff offices responsible for measurement.

### **Issuance of seizure and forfeiture notices**

The Commission established the goal for issuance of seizure and forfeiture orders of no more than 30 days after the end of CBP's waiting period in FY 2001.<sup>4</sup> As described in previous annual Performance Reports, the agency did not consistently meet this goal during FYs 2001 – 2003 despite changes in procedures that were implemented in FY 2002.

During FY 2004, the Commission received over 200 notification letters regarding attempted entries of excluded goods from CBP. All of these letters were received by the Commission in the months of August and September 2004, and all but six of them concerned the same investigation, which related to sildenafil (337-TA-489). With one exception, the 90-day period during which the importer could formally protest CBP's denial of entry had not yet expired by the end of FY 2004. With regard to the one letter for which the 90-day period had passed, the Commission did not issue a seizure and forfeiture order during FY 2004 because CBP's notification was received so late in the fiscal year. Accordingly, the Commission did not issue any seizure and forfeiture orders during FY 2004.

During FY 2005, the Commission received thousands of notification letters in the sildenafil investigation. These letters were all addressed to individual consumers. In view of CBP's decision to return the subject infringing merchandise to the foreign exporters, rather than to detain the goods, the Commission exercised its discretion not to issue seizure and forfeiture orders to the individual consumers. The Commission issued five seizure and forfeiture orders in

<sup>4</sup> So that the Commission does not issue seizure and forfeiture orders during the period when protests of CBP's action may be lodged, there is necessarily a 90-day waiting period before issuance of Commission seizure and forfeiture orders.



FY 2005. One order was issued 10 days after expiration of the protest period and another was issued 5 days after the protest period expired. Two other seizure and forfeiture orders were issued significantly before the protest period expired. Thus, four of the five seizure and forfeiture orders issued in FY 2005 were issued well ahead of the performance goal. The fifth seizure and forfeiture order issued approximately 190 days after the 90 day period for filing a protest had expired. In this case, however, Custom's denial letter was not received by the Commission until approximately 130 days after it was issued.

### **Communications regarding enforcement of remedial orders**

In FY 2003, FY 2004 and FY 2005, a working group comprising representatives from the Office of Unfair Import Investigations and the Office of General Counsel met semi-annually to consider issues regarding Section 337 remedies, including the enforcement of exclusion orders. During FY 2004, the working group developed a survey regarding the effectiveness of outstanding exclusion orders.

In accordance with FY 2005 performance goals, the survey was finalized, published for public comment, approved by the Office of Management and Budget, and sent to the named complainant or the current intellectual property owner in 52 of the 57 investigations for which an active exclusion order is in place. As to the remaining five investigations, they either have current enforcement proceedings pending before the Commission or no current address for the complainant or intellectual property owner could be identified. The Commission plans to evaluate the responses to its survey during FY 2006.

During FY 2005, members of the enforcement working group also met with personnel from the Intellectual Property Rights Branch of CBP to discuss ways to improve communications relating to the enforcement of Section 337 exclusion orders. As a result of those discussions, Commission personnel have begun providing additional scheduling information to the IPR Branch to assist it in planning for upcoming exclusion orders.

## Operation 3: Industry and Economic Analysis

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The Commission contributes to the public debate on issues concerning U.S. international trade and competitiveness through an extensive industry and economic analysis program. The Commission's analysis of trade and competitiveness issues is authorized by section 332 of the Tariff Act of 1930. The Commission's probable economic effects investigations are conducted under the authority of section 131 of the Trade Act of 1974 and section 2104 of the Trade Act of 2002. The Commission, through its industry and economic analysis program, also takes the initiative to explore and provide independent assessments on a wide range of emerging trade issues. One of the Commission's long-range goals is to be a national resource of industry, economic, and regional trade expertise for the nation's policymakers and to enhance its position as a recognized leader in independent industry and economic analysis. To this end, the Commission's current Strategic Plan established the following general goal for this operation:

*Provide the Legislative and Executive Branches, as well as the public, with unique and timely industry and economic analyses that contribute to sound and informed trade policy formulation.*

Table 3-1 and figure 3-1 show workload trends for the Commission's industry and economic analysis investigations during FYs 2001-2005. In addition to conducting these formal investigations, the Commission completed 51 articles, staff papers, and formal presentations in FY 2005. During FY 2005 the Commission met or exceeded 10 of its 13 performance goals for the Industry and Economic Analysis program. Performance results are discussed in detail below.

**Table 3-1: Summary of industry and economic analysis program investigations,<sup>1</sup> FY 2001-2005**

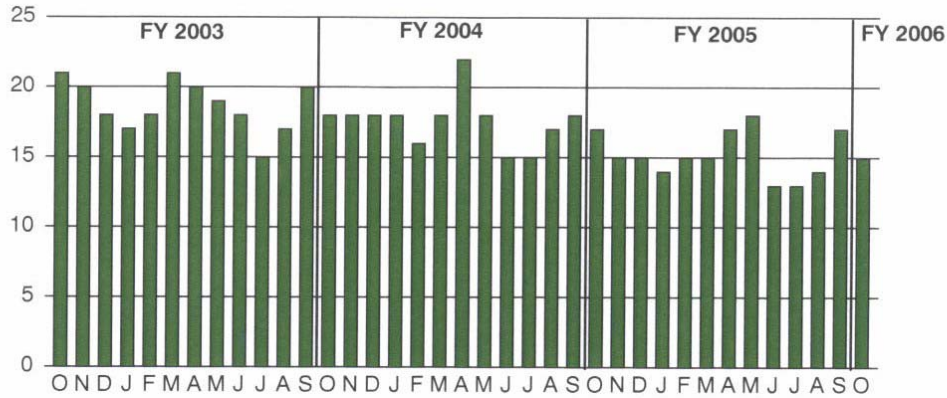
Status <sup>2</sup>	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Instituted	16	17	16	16	17
Active	34	36	37	34	36
Completed	13	15	18	16	21

<sup>1</sup> Includes investigations conducted under section 332 of the Tariff Act of 1930, sections 131 and 163(c) of the Trade Act of 1974, and sections 2104 and 2111 of the Trade Act of 2002.

<sup>2</sup> The data presented for instituted investigations reflect those which were newly instituted in the respective fiscal years. Active investigations refer to all ongoing studies, including the recurring report series. Completed investigations do not include those that are part of an ongoing series (i.e., recurring). Investigations 332-354 and 332-377 were considered inactive. They are not included in the total.

Source: Office of Operations.

Figure 3-1: Research program investigations active, by months, for October 2002 through October 2005<sup>1</sup>



<sup>1</sup> Includes recurring investigations.

Source: Office of Operations.

### ***FY 2005 Performance***

The Commission established two strategies and corresponding annual performance goals for this operation in the current Strategic Plan. In FY 2005 an important performance goal for this operation was to develop and provide useful industry and economic analysis to customers. For FY 2005 the agency revised its goals from previous years, adding a goal related to policy maker citations of, and briefings on, Commission studies, and switching from measuring the number of users of its Operation 3 related web pages, to measuring user satisfaction with those web pages. The Commission also established a baseline level of user satisfaction with its Operation 3 related websites. The agency also modified its goal related to the number of new requests for industry and economic analysis investigations, choosing to focus on measuring the number of requests that involve new areas or types of analysis, rather than the overall number of requests.

## **Strategy 1: Develop and provide useful industry and economic analysis to customers**

### FY 2005 Performance Goals

- a. 50% of public statutory reports are cited by policy makers. 75% of Commission statutory reports result in briefings for either Congress or USTR.
- b. 100% of reports on time
- c. (1) Establish baseline of satisfaction level  
(2) 75% positive response  
(3) 2 requests that involve new areas or types of analysis.

### Performance Indicators<sup>1</sup>

- a. Public statutory reports are often cited or mentioned as useful by customers such as USTR and Congress. Customers request briefings on report findings. (OP)
- b. Section 332 reports to requesters on time (OP)
- c. Positive results from:
  - (1) Level of satisfaction reported by users of ITC Industry and Economic Analysis web pages;
  - (2) Written comments from users; and
  - (3) The number of customer requests for new areas or types of analysis.

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<sup>1</sup>The office shown in parentheses is the staff office responsible for measurement.

## **Public reports cited and timeliness of reports**

Twenty-five percent of the Commission's public reports were cited by policy makers (defined for this report as members of Congress and USTR), thus falling short of the 50 percent goal. The Commission delivered 16 public statutory studies during FY 2005. The Commission found evidence through web searches of four studies being cited (or used) by members of Congress or USTR in either press releases, in reports to Congress or the public, used in testimony before Congress, or on the floor of one or both houses of Congress. As an example, the Commission's study, *U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects* was widely cited in testimony before Congress and on the floor during debate on the legislation. In addition to the four studies cited by policymakers, many of the Commission's studies were cited on other government websites. For example, many State Department embassy websites cite Commission studies (e.g., Commission studies on Africa trade flows, Logistics Services, and the U.S.-Bahrain Free Trade Agreement),

and almost all of the Commission's reports were cited by the trade press, industry associations, or other research organizations. While the Commission did not reach its goal for FY 2005, establishing the goal led to a comprehensive web-based search for references and citations of the Commission's public industry and economic analysis studies. Review of the web-based record of references to Commission industry and economic analysis studies will now allow the Commission to better devise and implement an approach to broaden policy maker and public exposure to our reports. Gaining greater public recognition of the Commission's industry and economic analysis reports by policy makers remains an important goal for FY 2006. The Commission will use this year's results as a benchmark for improvement in this indicator in future years.

The Commission also did not meet its goal related to briefing Congress or USTR on its industry and economic analysis studies. The Commission's goal was to provide briefings on 75 percent of its studies during FY 2005. During the year the Commission provided 6 briefings to policy makers, representing 29 percent of all Commission studies completed during the year. The Commission offered briefings to the requester on almost all of its studies during FY 2005. In most cases customers indicated briefings were not necessary after receipt of the report, though in some cases customers followed up receipt of the report with requests for answers to some limited, specific analytical detail on certain dimensions of the study (for example the Commission was requested to provide clarifying answers on its report, *U.S.-Central America-Dominican Republic Free Trade Agreement: Potential Economywide and Selected Sectoral Effects*, during Congressional debate on the legislation). The Commission found that in most cases the requesters felt the report answered their questions sufficiently. The Commission will use the FY 2005 results as a benchmark for future improvement.

The Commission issued all section 332 and other industry and economic analysis reports to requesters on time or early, with 13 reports in FY 2001, 15 reports in FY 2002, 18 reports in FY 2003, 16 reports in FY 2004, and 21 reports in FY 2005. The continuing Commission goal will be to complete all industry and economic analysis investigations on schedule.

In FY 2005 the Commission utilized a Foresee E-government Satisfaction Index random questionnaire to measure user satisfaction levels with all of its web pages, including the Industry and Economic Analysis web pages. The Foresee Index allows the Commission to compare user satisfaction levels across all of its web pages, identifying areas of strengths and weaknesses in its different operational areas, as well as comparing its overall web site performance with those of other government agency web sites with similar or related measures.

As shown in table 3-2, the Industry and Economic Analysis web pages overall customer satisfaction score was a 63 in FY 2005, just under the score for the overall Commission site.<sup>5</sup> The government-wide satisfaction score was 73.5 for the same period. Thus customer

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<sup>5</sup> The following section on Operation 4 provides more information regarding survey results for the Commission's overall website.

satisfaction with the Operation 3 component web pages was below the overall government-wide score, though essentially equal to the Commission's overall score. The satisfaction level measured during FY 2005 will represent a benchmark from which future Commission performance in this area will be measured. The Commission goal for 2006 is to improve our overall satisfaction score for the Industry and Economic Analysis web pages by 5 percent over the benchmark level, to 66.

**Table 3-2: User survey results for Industry and Economic Analysis web pages, FY 2005**

<b>Types of users:</b>							
<b>Downloaded a report:</b>							
	Never downloaded a report	Used for business	Used for academic research	Other	Used for trade negotiation	Used in preparation for trade litigation	<b>Overall users</b>
<i>No. of Respondents:</i>	128	79	60	32	17	11	<b>327</b>
<i>Share of total:</i>	39%	24%	18%	10%	5%	3%	
<b>Scores:</b>							
Content	76	77	82	74	78	79	<b>77</b>
Functionality	65	70	75	66	74	70	<b>69</b>
Look and Feel	63	70	69	56	63	78	<b>66</b>
Navigation	56	65	68	58	62	69	<b>61</b>
Search	58	68	62	63	69	68	<b>62</b>
Site Performance	73	80	77	74	76	70	<b>76</b>
<b>Overall Satisfaction</b>	<b>57</b>	<b>67</b>	<b>70</b>	<b>56</b>	<b>62</b>	<b>71</b>	<b>63</b>
Likelihood to Return	66	83	83	70	82	93	<b>75</b>
Recommend	62	77	76	63	77	89	<b>70</b>
Primary Resource	59	75	82	66	79	83	<b>70</b>

Source: Foresee Results, USITC Satisfaction Insight Reports.

In addition to the overall satisfaction level, the Foresee results provide more detailed breakouts distinguishing between two broad customer categories -- those users who downloaded a report and those who did not download a report (table 3-2). While the overall satisfaction level was 63, respondents who downloaded a report to use for business rated the site higher (67), as did those who downloaded a report for academic research (70) and preparation for trade litigation (71). Users who never downloaded a report rated the pages a 57 and those who downloaded a report for reasons other than those listed above rated the pages a 56. These breakouts suggest that many of the agency's key customers, those who download and use our reports for business, trade litigation, and academic research, are more satisfied with the Industry and Economic Analysis web pages than those who never download a report, downloaded a report for trade negotiation reasons, or downloaded a report for other reasons.

In addition, scores for content (77), likelihood to return (75), recommend (70), and primary resource (70) were all higher than the general satisfaction level and followed a pattern across users similar to the average satisfaction level. The lowest overall scores were for navigation (61) and search (62), suggesting that overall user satisfaction was lowered by basic functions of the web site, rather than the content of the Industry and Economic Analysis pages themselves. Based on this information, the agency will give priority for improvement of the overall satisfaction score to basic search and navigation issues related to the pages. The Commission will also continue to work on improving those scores related to content.

### **Web redesign**

The survey results mentioned above were reviewed as part of a mid-year review. The Commission scores for the overall year were higher than for the mid-year review, suggesting improvement in the web site's reception by customers over the year. The survey information, and mid year reviews, have provided useful insights regarding ways in which the Industry and Economic Analysis program can improve its overall Web presence, and guide Commission actions to improve searchability and navigation.

### **Written comments from users**

This performance indicator is subjective in nature and is based on a variety of types of feedback, written and other, gathered by project leaders. The results for FY 2005 do not differ significantly from those compiled for prior years. The Commission has decided to remove this performance indicator in future years and will focus more on the Foresee E-government Satisfaction Survey and on allowing readers to provide feedback directly through the web pages.

In FY 2005, the Commission continued its practice of including an "ITC Reader Satisfaction Survey" in each report and also on its Industry and Economic Analysis web pages to solicit reader comments on the value and quality of ITC industry and economic analysis reports. As in previous years there were very few responses, even with the electronic survey form, which the Commission added to its web pages to facilitate public feedback. Public feedback during FY 2005 remained positive, as in previous years. 21 responses were received, each with 9 categories, for a total of 189 possible responses. No responses expressed dissatisfaction with a Commission reports. All 189 responses either agreed or strongly agreed that the Commission reports are useful to them in terms of the value and the quality of the reports' contents.

Positive customer feedback also occurred in the form of comments from subject industries (e.g. the Commission study on the Foundries industry received very positive feedback from the

industry and was highlighted on a trade association website), telephone calls to discuss reports and seek additional information, requests for briefings, and coverage in trade publications.

### **Number of customer requests that involve new areas or types of analysis<sup>6</sup>**

The Commission conducted at least 4 studies involving new areas or types of analyses. The Commission set a performance goal of 2 new areas or types of analysis. The Commission conducted studies in service sectors such as environmental remediation, air and noise pollution abatement services, and logistic services all of which broke new ground for the Commission. Another new area for Commission work was a study on export opportunities and barriers in African Growth and Opportunity Act – eligible countries.

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<sup>6</sup> This measure includes all formally requested industry and economic analysis investigations under the Tariff Act of 1930, the Trade Act of 1974, and the Trade Act of 2002.



## Strategy 2: Implement innovative analytical methods and address emerging areas and issues

### FY 2005 Performance Goals

- a. More than 60 initiatives, as resources and mandatory work permit.
- b. (1) Increased use of ITC website (including EDIS) to facilitate public involvement in studies and to disseminate information. Special efforts in FY 2005 include roll out of an ITC “Industry and Economic Analysis” Web page, including continued efforts to convert existing and new ITC publications and databases to a Web-based format.  
  
(2) Expansion of economic modeling capabilities and use. Of particular note in FY 2005 will be: (1) continued enhancements to the USAGE-ITC model, namely adding a dynamic component to the current static version and breaking out occupational categories, (2) increased ability to model agriculture policies in the agency’s analytical frameworks, (3) establishment of foundation and procedures for research and analysis of U.S. – China and U.S.-India trade issues related to the United States, and (4) identification and initial development of likely analytical tools/databases needed for upcoming trade negotiations.  
  
(3) Web redesign and semi-annual review of Web site and revisions completed.

### Performance Indicators <sup>1</sup>

- a. Numbers of self-initiated articles, working papers, research notes, and presentations at professional meetings/conferences (OP).
- b. Number/type of enhancements in information management and analytical methods (OP).

<sup>1</sup> The office shown in parentheses is the staff office responsible for measurement.

## Research Initiatives

Self-initiated research work is highly dependent on, and tends to exhibit an inverse relationship to the level of other, higher priority investigative work such as formally requested industry and economic analysis investigations and import injury investigations. Table 3–3 shows the trend in independent staff research over the past four years. Overall activity in FY 2005 (51 initiatives) fell short of the goal of 60. The decline in total initiatives is largely explained by the decline in *International Economic Review* (IER) articles. Also contributing was the high level of statutory requests, as well as an unusually high number of vacancies in both the Office of Industries and the Office of Economics throughout FY 2005. Thus there were fewer analysts and economists available to make independent staff research contributions. The IER was discontinued during FY 2005, as the Commission developed a new integrated journal that will replace the IER and the *International Trade and Technology Review* (ITTR). Self-initiated research is tied to Commission priorities, and often serves as a testing ground for new analytical techniques or an opportunity to collect data and information and develop deeper expertise that likely will be used in future statutory work.

**Table 3–3: Self-initiated research, FY 2001–FY 2005**

Item	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
IER articles	30	16	25	17	1
ITTR articles	11	10	6	6	6
Industry Summaries	5	3	6	1	0
Staff research papers	2	0	0	0	0
Working papers	10	12	7	11	6
Research notes	3	0	0	0	0
Formal Staff presentations	56	37	42	34	38
Total	117	78	86	69	51

Source: Office of Operations.

### **Information Management and Analytical Enhancements**

The Commission has taken steps to enhance information management and analytical methods during recent years. In FY 2005, the Commission implemented the Industry and Economic Analysis section for its new website. The new pages organized and presented Commission information in what was hoped to be a more user-friendly format so that customers could more easily find and utilize Commission products. Changes included grouping all goods- and service-related products on specific pages. Similar efforts were made for regional information, Commission approved industry and economic analysis products (such as section 332 final reports) and staff generated materials. As mentioned earlier, Foresee survey results suggest the Commission could improve the performance of its Industry and Economic Analysis web pages by improving the navigation and search capabilities.

The Commission continues to explore ways to provide recurring reports in a timelier manner through its website. The agency already posts all of its non-confidential studies and investigations on the ITC website, which provides the public with instant access to Commission industry and economic analysis. The Commission is exploring methods for proactive notification of newly released studies directly to interested parties.

In order to improve analytical methods, the Commission continued to enhance its database development and economic modeling capabilities on a number of fronts. For example, the Office of Industries began to develop several databases related to agricultural tariff and NTM measures, and generated analytical pieces summarizing the first of those databases. The Office of Economics, in response to feedback from Commission customers and internal Commission review, developed a highly disaggregated, policy-detailed sugar sector for its large scale economic model of the U.S. economy (USAGE-ITC model). The framework established for modeling the sugar policies will also be useful for other agricultural sectors such as dairy and cotton, and modeling of those sectors will occur as time permits. Commission staff continues work to break out occupational categories in this framework, and expects to use both the

dynamic and occupational components in the agency's 2006 update of *Significant U.S. Import Restraints*. During FY 2005 Commission staff made preparations to conduct more in-depth analyses on U.S.–China trade based on interest from USTR and Congress for Commission insights on this relationship. The Commission substantially expanded its databases, knowledge of the relevant issues, and research literature for the analysis of U.S.-China trade and bilateral trade agreements. Commission staff is proceeding with a series of studies on China related issues. Progress was made in quantifying non-tariff measures in logistics, telecommunications, and banking to assist in possible evaluation of the gains from the Doha Round. Commission staff also prepared a draft of a working paper on outsourcing to India.

## Operation 4: Trade Information Services

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The Commission maintains an extensive repository of trade, tariff, and related data and expertise. Drawing on these resources, it provides trade information services relating to U.S. international trade and competitiveness to executive branch agencies and the Congress, other governmental organizations, and the public. Trade information services include such activities as production and maintenance of the Harmonized Tariff Schedule (HTS), the on-line, interactive Tariff and Trade DataWeb, and preparation of legislative reports for Congress. Other trade information services requiring Commission resources include contributions to the development of the International Trade Data System (ITDS), maintenance of U.S. commitments under Schedule XX of the General Agreement on Tariffs and Trade/World Trade Organization (GATT/WTO), maintenance of the electronic version of the U.S. Schedule of Services Commitments under the General Agreement on Trade in Services (GATS), preparation of the electronic database that supports U.S. submissions to the WTO Integrated Database, and related information gathering, processing, and dissemination activities.

The Commission's Strategic Plan establishes the following general goal for this operation:

*Provide effective technical expertise and advice on the implementation of trade policy and related administrative decisions; enhance the availability of high-quality tariff and international trade information to the Executive and Legislative Branches, as well as the broader trade community and the public; and increase the ability of customers to use such information.*

Performance results for Operation 4 are discussed in detail below.

### ***FY 2005 Performance***

The Commission established two strategies and corresponding annual performance goals for this operation in the current Strategic Plan. In FY 2005, the Commission continued to make significant progress in improving the utility and dissemination of agency trade and tariff information services, meeting or exceeding virtually all of its goals. Specific results are discussed below.

**Strategy 1: Increase the utility and improve the dissemination of ITC trade and tariff information services to customers**

**FY 2005 Performance Goals**

- a. (1) 5% increase in number of Trade DataWeb reports provided.  
(2) 5% increase in number of Tariff Database reports provided.
- b. Modernization of data and tariff publication processes underway.
- c. Establish baseline for number of user visits to the HTS page of the ITC website; semi-annual reviews of Operation 4-related website components and revisions completed.
- d. Establish baseline for user feedback regarding main website.
- e. 100% timely and accurate responses to email requests for tariff advice.

**Performance Indicators<sup>1</sup>**

- a. Level of use, as appropriate:
  - (1) Trade DataWeb
  - (2) Tariff Database (OP)
- b. More effective information management methods adopted (TATA).
- c. Level of use of HTS page of ITC website; review and revision of content (TATA).
- d. Results of feedback from users of ITC's main website (CIO).
- e. Number of email requests for tariff advice.

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<sup>1</sup> The offices shown in parentheses are the staff offices responsible for measurement.

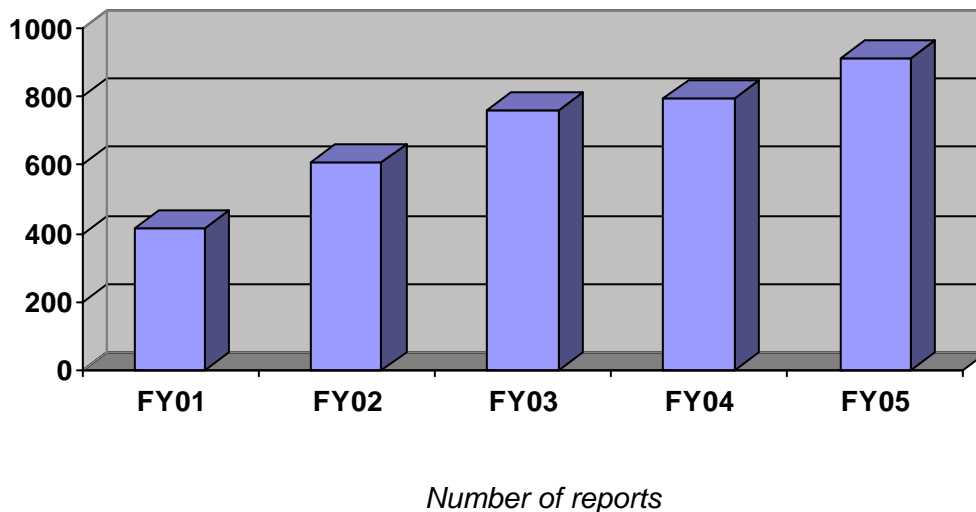
The Commission established baseline statistics for use of various types of nomenclature expertise and trade information in FY 1999. During 2000-2004, use greatly exceeded the established goals in most instances. The Commission also continued to make progress in the area of information management automation.

## ITC Trade DataWeb

Over the past 5 years, DataWeb usage by non-ITC users increased significantly (figure 4-1). During FY 2005, usage levels increased by 14 percent, surpassing the annual goal of a 5-percent increase. In addition, these data understate overall usage because they do not include viewing and downloads of various prepared reports.<sup>7</sup> The Commission continued to make improvements to the website by developing additional prepared reports related to the agency's annual report on *Shifts in U.S. Merchandise Trade*. These reports were made available in early FY 2005. For FY 2006, the agency has retained the goal of 5 percent annual growth in usage and will continue its efforts to enhance the site for various types of customers. Since the inception of the DataWeb, non-government use has accounted for about 86 percent of the non-ITC data reports generated (figure 4-2). The share of non-government users has increased each year and reached 89.3 percent in FY 2005.

**Figure 4-1 FY 2001- FY 2005 DataWeb reports to non-ITC Users**

*In thousands*

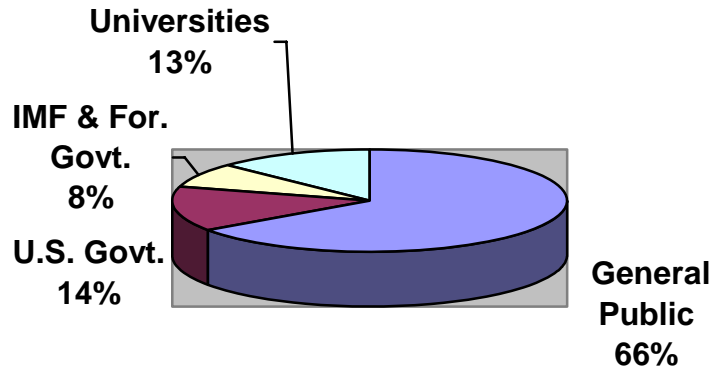


Source: Office of Operations

<sup>7</sup> During FY 2005, the Commission developed and made available prepared reports covering trade in various types of steel products and U.S. trade with Sub-Saharan Africa to augment user-defined reports.

**Figure 4-2: DataWeb reports to non-ITC users, FY2001-FY2005**

*In thousands*



Source: Office of Operations

### **ITC Tariff Database**

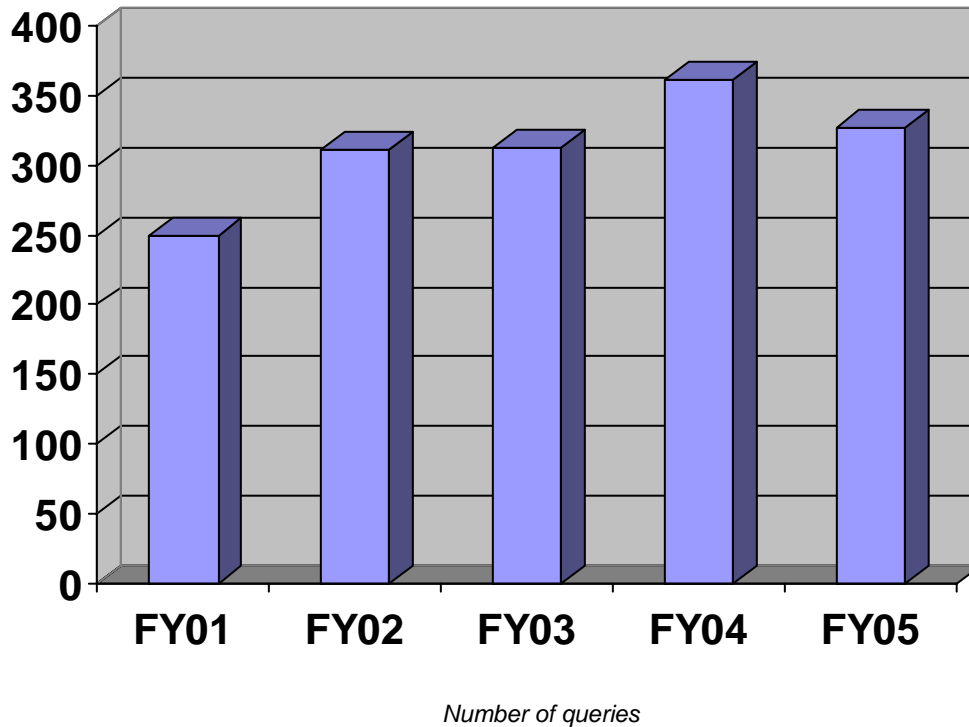
As shown in figure 4–3, use of the ITC Tariff database increased significantly during FY 2001-2002.<sup>8</sup> The level of activity remained about the same in 2003 as other products, such as the Harmonized Tariff Schedule of the United States Annotated (HTSA) Online by Chapter (which shows the full legal text) gained in popularity. During FY 2004, non-ITC use of the tariff database exceeded the Commission’s performance goal, showing an increase over FY 2003 of about 16 percent, as both the tariff database and the HTSA by Chapter became more widely used. During FY 2005, non-ITC use declined by about 9 percent. However, during the year the ITC contributed heavily to an alternative source for Customs officials and other consumers, i.e., a tariff reference portal developed by U.S. Customs and Border Protection as part of a new government-wide computer system. In addition to providing a dynamic view of the HTS, the reference portal allows government officials to collaborate with regard to specific HTS classification and related trade issues.

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<sup>8</sup> As noted in USITC Program Performance Reports for previous fiscal years, the ITC Tariff Database usage estimates for FY 2001 are understated.

**Figure 4-3 Estimated tariff data queries by non-ITC users, FY 2001–FY 2005**

*In thousands*



Source: Office of Operations

Commission staff also continued to work with the interagency International Trade Data System (ITDS), which is endeavoring to build a single, government-wide, on-line “window” for importing and exporting activities. The ITC’s Trade and Tariff Information Manager continued to chair the ITDS Data Harmonization Committee, which addressed the trade data needs of 20 Federal agencies.

### **Improvements in information dissemination**

Formal goals in this area were established, beginning in FY 2002, but the Commission had already made progress over the previous few years in providing various types of information to the public via its website. For example, in FY 2001, the HTSA Online by Chapter was made more accessible to the public and in a timelier manner. The site displays the latest texts of the HTSA and is updated generally within 2 days of implementation dates established for Presidential or Congressional changes. Immediacy of access to the up-to-date HTSA Online benefits Customs and Border Protection and the trade community in general. It is viewable, searchable, and downloadable.



In response to Congressional requests, the Commission established an electronic database that summarizes information provided in the Commission’s reports on miscellaneous tariff bills introduced in the 109<sup>th</sup> Congress. The database is revised periodically and provided to Congressional committee staff as significant updates occur. By the end of the fiscal year, the Commission had completed about 200 reports on bills introduced in the 109<sup>th</sup> Congress and forwarded them to the Congressional committees. Another 350 reports were in process at that time.

Two reviews of the website were undertaken during FY 2005, resulting in changes to the “Tariff Information Center” pages, which include the HTSA publication and the DataWeb. Certain World Customs Organization (WCO) and WTO documents were posted, and presentation of Commission reports on proposed legislation was enhanced to improve availability to the public.

Trade data on the DataWeb are updated monthly, and further revisions are undertaken as the need arises. As mentioned in previous sections of this report, the Commission recently reorganized its IT functions. Under the direction of the Commission’s new webmaster, the agency substantially completed the redesign of its website and made it available to the public in early FY 2005.

Formal tracking of the ITC website began in FY 2005. As discussed above under Operation 3, the Commission received feedback from a Foresee E-Government Satisfaction Index random questionnaire, with regard to the ITC website. The following table summarizes the results for the overall website and the HTS (tariff information) Group of web pages.

**Table 4-1. Satisfaction ratings by users of ITC website, FY 2005**

	<b>Overall ITC website</b>	<b>HTS Group web pages</b>	<b>Other Government trade-related sites<sup>1</sup></b>	<b>Private sector</b>
<b>Elements:</b>				
Content	78	79	79-80	78
Functionality	70	72	72-75	70
Look and feel	66	67	69-71	67
Navigation	62	64	67-69	63
Search	64	65	65-68	63
Site performance	77	79	79-80	77
<i>Overall satisfaction</i>	64	66	68-72	63
<b>Future behaviors:</b>				
Likelihood to return	78	78	85-86	81
Primary resource	73	74	78-79	73
Recommend	73	74	79-81	74

<sup>1</sup> USTR, Department of Commerce, CBP, and U.S. Department of Agriculture.  
Source: Foresee Results, USITC Satisfaction Insight Reports.

As indicated in Table 4-1, satisfaction ratings for the overall ITC website were slightly below those for other Government, trade-related websites, but compared favorably with private sector sites. Satisfaction with the HTS Group web pages was slightly higher than with the overall ITC website in most categories, but at the lower end of ranges for “other” Government, trade-related

sites. These ratings will serve as benchmarks for comparing user satisfaction with the ITC website in FY 2006. The level of use of the HTS website in FY 2005 amounted to 330,368 visits, with a total of 465,923 hits. The Commission plans to use this level of activity as a benchmark for future years.

In addition, TATA staff responded to 7,389 automated email requests for tariff-related information during FY 2005. This is nearly double the number of such requests received in FY 2004.

During FY 2005, the Commission continued its examination of converting the HTSA from a strict word processing format to an .XML format. This was aimed at facilitating the presentation of the Tariff in database format, which, in turn, would benefit U.S. Customs and Border Protection in updating their files. It would also enhance the Commission's ability to develop interactive web pages for disseminating tariff information to the trade and the general public. Several attempts in this vein uncovered as many difficulties as it did benefits, so the focus was turned to the possibility of creating the original Tariff Schedule in a WordPerfect tables format, which could be converted, through tailored programming to .XML files and manipulation to searchable .pdf files, for direct use in the HTS publication. As of the end of FY 2005, this work was still in the developmental stages and progressing. Nevertheless, new methods were identified for correcting format discrepancies in the HTS in its present format. The various incremental efforts to streamline the production of the HTS and to make use of improved information technology are expected to continue through FY 2006 and FY 2007.

**Strategy 2: Provide timely, effective, and responsive nomenclature and similar technical services to customers.**

**FY 2005 Performance Goal**

95% positive results from product feedback assessments from Congress and the Administration.

**Performance Indicator<sup>1</sup>**

Results of product feedback assessments (TATA/ER).

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<sup>1</sup> The offices shown in parentheses are the staff offices responsible for measurement.

In FY 2000, the Commission began conducting formal focus group discussions with Congress and the Administration. From that time through FY 2004, Commission representatives met at least once a year with the Senate Committee on Finance, the House Committee on Ways and Means, and USTR. During that period, the Commission consistently received positive feedback from these key customers concerning its contributions to tariff legislation and trade negotiation activities at the WTO. In particular, USTR was appreciative of the Commission's efforts in

providing trade data and maintaining the U.S. Schedule of Tariff Concessions (Schedule XX) in support of WTO activities.

In FY 2004, in lieu of focus group feedback, ER staff prepared questionnaires for customer feedback. Numerous indices of positive customer feedback were received, including election of ITC staff to chair WCO committees and special working parties, and communications from USTR, Congressional Committees, the Department of Commerce, Overseas Private Investment Corporation, Department of Agriculture, the WCO, and the public. In addition, awards and commendations were conferred on staff from private sector groups. No negative comments were received.

For FY 2005, the performance goal for this strategy was reformulated to read as follows: “95% positive results on product feedback assessments”. In February 2005, ITC senior staff, including the Director of ER and the Acting Director of TATA, participated in a forum organized by the Senate Committee on Finance and the House Committee on Ways and Means, in conjunction with ITC Commissioners. Congressional staff expressed their high regard for the Commission’s contributions, particularly with regard to Section 332 investigations and miscellaneous tariff legislation, and sought to clarify the ITC’s continuing role in the future. During the fiscal year, ER and TATA staff were in almost daily contact with USTR, regarding GSP, NAFTA rules of origin, bilateral trade agreements (Morocco, Australia, Bahrain and CAFTA) and other activities. In this context, feedback from USTR continued to be very positive.

Among other activities in FY 2005, the Commission hosted an international working party to propose amendments to the HS Explanatory Notes, in order to reflect HS legal amendments to be implemented in 2007. ITC staff also prepared a preliminary Section 1205 report, to reflect the HS legal amendments in the HTSA. The Acting Director of TATA continued to chair the Harmonized System Committee and another TATA staff member continued to lead the U.S. delegation to the HS Review Sub-Committee.

## **Operation 5: Trade Policy Support**

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The Commission provides support to trade policymakers in the Executive Branch and in the Congress by supplying technical expertise and providing objective information on international trade issues. It offers technical support in the form of research, data compilation, informal briefings and meetings, participation in interagency committee activities, support to USTR for WTO litigation and negotiations, testimony at Congressional hearings, and other support activities. The Commission provides “quick response” research for the Congress and the Executive Branch on trade issues in the form of staff-to-staff assistance. Commission staff also draft Presidential Proclamations and other Presidential documents (e.g. Executive Orders and Presidential memoranda), as well as final decisions by various Executive Branch agencies that modify the HTS to implement Congressional legislation or trade policy decisions by the Executive Branch. This Operation also encompasses support for U.S. trade policy formulation and U.S. representation in international fora, and includes formal details of staff to executive agencies.

The Commission’s Strategic Plan establishes the following general goal for this operation:

*Contribute to the development of sound and informed U.S. international trade policy by providing effective technical support and analysis to the Executive Branch in international trade negotiations, international trade dispute resolution proceedings, and other international trade fora, and to the Legislative Branch through appropriate committees and subcommittees.*

Performance results for FY 2005 are discussed in detail below.

### ***FY 2005 Performance***

The Commission maintains two strategies and two corresponding annual performance goals for this Operation. Those performance goals address providing technical assistance on a wide range of issues to the Commission’s statutory customers, finding more effective means to provide trade policy support, and enhancing the effectiveness of information support that the Commission provides to its customers and the public. In FY 2005, the Commission generally met or exceeded its performance goals for this Operation, as discussed below.

**Strategy 1: Regularly contribute technical analysis to organizations involved in trade policy formulation where Commission participation is appropriate**

**FY 2005 Performance Goal**

48 trade policy issue areas supported.

**Performance Indicator<sup>1</sup>**

Number of trade policy issue areas supported by ITC analysis (ER).

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<sup>1</sup> The office shown in parentheses is the staff office responsible for measurement.

The Office of External Relations (ER) collects data on a quarterly basis from each staff office providing assistance to USTR or the Congress. The data are compiled in quarterly reports that are sent to the Commissioners and senior staff at the Commission. The reports provide information on the type and focus of assistance, the recipient of the assistance, and the amount of time expended.

Over the past five fiscal years, these reports indicate an ever increasing level of participation by Commission staff in terms of the range and complexities of the issues addressed. The Commission provided technical advice and assistance to USTR, interagency committees, and international organizations in 82 different substantive issue areas in FY 2005, as compared to 73 in 2004, 65 issues in FY 2003 and 60 issues in FY 2002. While there has been an upward trend in technical assistance requests in recent years, this trend could as easily reverse, depending on such variables as the legislative calendar, the FTA schedule, the election cycle, and economic trends, all of which can affect the level of activity and interest by policy-making customers. We will continue to evaluate the trend. The bulk of participation (in terms of workdays) in FY 2005 was focused on WTO dispute settlement and litigation issues, other WTO-related topics, issues related to completed Free Trade Agreements (e.g. CAFTA, Bahrain and Morocco), and ongoing FTA negotiations. A significant amount of resources was devoted to support for USTR in connection with the Doha Round of multilateral negotiations, including the Negotiating Group on Rules.

Commission staff also provided technical advice and assistance to Congressional committees on 26 substantive issue areas in FY 2005. Staff provided assistance on a range of sectoral issues including products as diverse as footwear, soybeans, tuna, ethanol, textiles and apparel, and manmade fiber, to name only a few. It also responded to requests for information on regional

issues such as the African Growth and Opportunity Act enhancement, (AGOA III), trade with China, and the Free Trade Agreements with Singapore, Central America, the Dominican Republic, and Morocco.

## **Strategy 2: Provide effective trade policy support to customers<sup>1</sup>**

### **FY 2005 Performance Goals**

- a. Web design refined and appropriate revisions implemented based upon results of annual review.
- b. 95 % positive results from feedback from USTR, Congress, and other agencies.

### **Performance Indicators<sup>1</sup>**

- a. Results of review of mechanisms for providing support, including review of Website content (ER).
- b. Customer satisfaction as measured by results of product feedback assessments from USTR, Congress, and other agencies (ER).

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<sup>1</sup> The office shown in parentheses is the staff office responsible for measurement.

## **Review of support mechanisms**

The FY 2002 Performance Plan introduced the general objective of implementing more effective means of providing trade policy support in an effort to improve customer satisfaction. In FY 2002 through 2004, efforts were made to provide technical assistance through electronic means, such as e-mail, electronic databases, and CD-ROMs. The Commission continued and expanded the scope of these practices in FY 2005, including the successful delivery of the first Commission report to USTR in electronic form only.

In FY 2004, the Commission undertook a complete reevaluation of the contents of the website, resulting in a comprehensive expansion and redesign of the site. The volume of information was significantly expanded and its presentation reorganized, clarified, and improved by the preparation of generic descriptions of investigative and analytical materials, as well as the utilization of a uniform layman's vocabulary with on-line definitions supplied for technical terms. The new website was introduced in early FY 2005 to generally positive response; throughout the year, the Commission continued to refine aspects of the redesigned site to enhance accessibility and further attain the goals of supporting trade policy development.

## **Product feedback**

In FY 2005, ER arranged six feedback sessions with USTR senior staff members. Each session was scheduled after the delivery of a specific product by the Commission to USTR. This approach provided more focused discussion of specific Commission work. Each briefing was presented by the Commission team responsible for development of the study and ER staff. The sessions were well-attended by USTR staff, which also invited staff from other interested agencies, depending upon the subject matter. The first session concerned the results of the Commission's study, *Logistic Services: An Overview of the Global Market and Potential Effects of Removing Trade Impediments*. Commission staff provided a detailed briefing and responded to USTR questions about the report. Similar sessions were conducted for the other five reports. With one exception, the reports were very well received. For the most part, comments from USTR staff reflected their growing recognition of the range of data collection and analytical methods that the Commission can utilize in its assessments of various trade policy matters. The comments included suggestions regarding additional analysis for future reports covering similar topics. During the year, the Commission was able to implement some of these suggestions in other reports. In the case of the one report for which the Commission received less positive feedback, USTR staff provided suggestions regarding the organization and presentation of information that Commission staff may adopt in future reports.

ER offered to arrange feedback sessions covering other reports, but those offers were declined by USTR staff, usually due to the press of business. In addition to feedback sessions on formal reports, Commission staff conducted informal briefing/feedback sessions on some of the more substantial technical assistance projects. The redirection of USTR focus groups in FY 2005 to concentrate on specific reports was very well received by USTR and Commission senior staff, and it was generally observed by the staffs of both agencies that these project-specific sessions were more useful to all participants. The success of these more frequent and narrowly focused meetings has prompted the Commission staff to conclude that this method of feedback will hereafter replace broader year-end evaluation sessions.

Efforts in FY 2005 to schedule feedback sessions on the Hill were not successful, due to the press of Congressional business, but Commission staff found alternative means to obtain feedback from Ways and Means and Finance Committee staffs. As noted in Operation 4 above, the Commission conducted a very successful USITC/Hill Forum for seventeen Ways and Means and Committee staffers. Commissioners and senior staff provided a comprehensive review of available services and how the Commission could support legislative activities. The Commission received very positive written and oral comments from senior Committee staff about the Forum. Suggestions that arose at the Forum led Commission staff to conduct additional informal work for the Committee staffs.

Throughout the year, the Commission sought and received regular e-mail and verbal feedback on its assistance to Congress on an array of products including technical assistance regarding the operation and understanding of trade laws, updates and status of various investigative issues, as well as various other trade-related matters. As noted in previous sections on Operations 3 and 4, Congressional staff also provided feedback on Sec. 332 investigations and trade data and other

trade-related information provided by the agency. The Commission received uniformly favorable reviews. Senior Committee staff commended, in writing, a number of technical assistance reports. For example, they stated that technical assistance on China was “top quality work and very helpful” and noted that they intended to share it with Executive Branch policy makers. Technical assistance reports were also commended for timeliness in light of tight timeframes. More generally, a Committee senior staff member observed that the Commission staff found creative ways to meet Committee needs (with particular reference to Miscellaneous Tariff Bills) and that some recurring reports were useful year-round reference materials.



# GLOSSARY OF ACRONYMS AND ABBREVIATIONS

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AD	Anti-Dumping
AGOA	Apparel Growth and Opportunity Act
AICPA	American Institute of Certified Public Accountants
ALJ	Administrative Law Judge
APO	Administrative Protective Order
APEC	Asian Pacific Economic Cooperation forum
Blue Book	Antidumping and Countervailing Duty Handbook
BFC	Budget Functional Classification
CAFTA	Central American Free Trade Agreement
CBP	U.S. Customs and Border Protection
CD-ROM	Compact Disk – Read Only Memory
CFO	Chief Financial Officer
CIO	Chief Information Officer
COOP	Continuity of Operations
CVD	Countervailing Duty
EC	Office of Economics
EDIS	Electronic Document Information System
EEO	Office of Equal Employment Opportunity
E-GOV	Electronic Government
ER	Office of External Relations
FAIR	Federal Activities Inventory Reform
FASAB	Federal Accounting Standards Advisory Board
FAQs	Frequently Asked Questions
FECA	Federal Employees Compensation Act
FEGLI	Federal Employees Group Life Insurance
FEHB	Federal Employees Health Benefits
FERS	Federal Employees Retirement System
FFMIA	Federal Financial Management Improvement Act
FICA	Federal Insurance Contributions Act
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
FOIA	Freedom of Information Act
FPC	Federal Preparedness Circular
FR	Federal Register
FTAs	Free Trade Agreements
FTAA	Free Trade Area of the Americas
FTE	Full-Time Equivalent (Employees)
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GAO	Government Accountability Office (formerly General Accounting Office)
GC	Office of the General Counsel
GPRA	Government Performance and Results Act
GSA	General Services Administration
HR	Office of Human Resources
HTS	Harmonized Tariff Schedule of the United States
HTSA	Harmonized Tariff Schedule of the United States Annotated
ID	Initial Determination (by an ALJ)
IER	International Economic Review
IG	Inspector General
IND	Office of Industries
INV	Office of Investigations

# GLOSSARY OF ACRONYMS AND ABBREVIATIONS--

## Continued

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IPR	Intellectual Property Rights
IRM	Information Resources Management
ITC	International Trade Commission
ITDS	International Trade Data System
ITTR	Industry Trade and Technology Review
NAFTA	North American Free Trade Agreement
NSI	National Security Information
NTB	Non-Tariff Barriers
NTM	Non-Tariff Measure
OAD	Office of Administration
OCIO	Office of the Chief Information Officer
OIG	Office of Inspector General
OIS	Office of Information Services
OITS	Office of Information Technology Services
OMB	Office of Management and Budget
OPM	Office of Personnel Management
OUII	Office of Unfair Import Investigations
OP	Office of Operations
PAR	Performance and Accountability Report
PDD	Presidential Decision Directive
P.L.	Public Law
Red Book	An Introduction to Administrative Protective Order Practice in Import Injury Investigations
Results Act	Government Performance and Results Act
SARS	Severe Acute Respiratory Syndrome
SE	Office of the Secretary
SFFAC	Statement of Federal Financial Accounting Concepts
SFFAS	Statement of Federal Financial Accounting Standards
SGL	Standard General Ledger
TATA	Office of Tariff Affairs and Trade Agreements
TEO	Temporary Exclusion Order
URAA	Uruguay Round Agreements Act
U.S.C.	United States Code (of General and Permanent Laws)
USSGL	U.S. Government Standard General Ledger
USITC	United States International Trade Commission
USTR	United States Trade Representative
WCO	World Customs Organization
WTO	World Trade Organization
XML	Extensible Markup Language