



# United States International Trade Commission

## Annual Performance Report



Fiscal Year 2011



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# Acronyms

AD/CVD	antidumping/countervailing duty
AFR	Agency Financial Report
ALJ	Administrative Law Judge
APR	Annual Performance Report
CIO	Chief Information Officer
Commission	U.S. International Trade Commission
Customs	Customs and Border Protection (DHS)
DataWeb	interactive tariff and trade DataWeb
DHS	Department of Homeland Security
EC	Office of Economics
EDIS	Electronic Document Information System
ER	Office of External Relations
FDI	foreign direct investment
FTA	free trade agreement
GATT/WTO	General Agreement on Tariffs and Trade/World Trade Organization
GC	Office of the General Counsel
GPRA	Government Performance and Results Act
GSP	Generalized System of Preferences
GTAP	Global Trade Analysis Project (Purdue University)
HTS	Harmonized Tariff Schedule
ID	Initial Determination
IG	Inspector General
IND	Office of Industries
INV	Office of Investigations
I-O	input-output
IP	intellectual property
IPR	intellectual property rights
IT	information technology
ITDS	International Trade Data System
ITS	Information Technology Services
NAFTA	North American Free Trade Agreement
NAICS	North American Industry Classification System
NTM	nontariff measure
OARS	Office of Analysis and Research Services
OAS	Office of Administrative Services
OCIO	Office of the Chief Information Officer
OEEO	Office of Equal Employment Opportunity
OIG	Office of the Inspector General
OMB	Office of Management and Budget
OP	Office of Operations

OUII	Office of Unfair Import Investigations
PAR	Performance and Accountability Report
SE	Office of the Secretary
SIC	Standard Industrial Classification
TATA	Office of Tariff Affairs and Trade Agreements
TEO	Temporary Exclusion Order
URAA	Uruguay Round Agreements Act
USAGE	U.S. Applied General Equilibrium
USITC	U.S. International Trade Commission
USTR	Office of the United States Trade Representative
WCO	World Customs Organization
WTO	World Trade Organization

# Message from the Chairman

I am pleased to transmit the FY 2011 *Annual Performance Report* for the United States International Trade Commission. This report documents the Commission's programmatic performance for the year and discusses our accomplishments and challenges.

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 relating to 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 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, tariff and trade information services, and trade policy support. Strategic goals and performance plans for these operations are reviewed annually and are designed to promote the mission of the agency.



## Key Accomplishments:

- **Met increased demands:** The Commission's investigative workload continued to increase significantly. Relative to the preceding fiscal year, the Commission instituted 22 percent more investigations in FY 2011, continuing a trend which has culminated in the highest number of investigations the organization has had in over a decade. The capacity for the Commission to accomplish this has been particularly noteworthy, in light of its unwavering commitment to the quality and timeliness of its investigations, the broadening scope and complexity of many of these investigations, and uncertainties associated with its funding.
- **Increased focus on performance improvement:** The Commission met or exceeded 73 percent of its performance targets for FY 2011, and partially met or showed improvement in another 11 percent of those same targets. These targets were geared towards improving the quality of its analytic capabilities and means of collecting information, the effectiveness in communication with its customers and the public, and the timeliness of its determinations and reports.
- **Rebalanced resources:** The growth in the number of investigations and their complexity has posed challenges to the Commission. To meet these challenges, the Commission rebalanced its resources to accommodate the expanding caseload. In particular, the Commission increased the number of attorneys in the Office of the Administrative Law Judges and the Office of the General Counsel. The Commission also obligated sufficient funds to build a third courtroom and related work areas to help alleviate scheduling problems and reduce the average length of investigations.
- **Adjudicated increased volume of intellectual property-based import investigations:** Intellectual property-based import investigations support a rules-based international trading system by producing high-quality and timely determinations that afford effective relief when relief is warranted. During FY 2011, the level of intellectual property-based import complaint filings set new records. The Commission instituted 78 complex investigations; these were either based on new complaints alleging violations, or were ancillary proceedings related to prior section 337 investigations.

- Employed innovative technical means for fact-finding and probable economic effects investigations: These investigations support sound and informed trade policy formulation. During FY 2011, the Commission instituted eight investigations and many research projects at the request of the United States Trade Representative (USTR) or the Congress to assess the impact of proposed changes in trade policy and trade negotiations. Examples of completed investigations include the impact of Chinese intellectual property infringement and indigenous innovation policies on the U.S. economy and U.S. producers; characteristics and performance of U.S. small and medium enterprises; and the effects of China's agricultural production and trade on U.S. exports. The Commission provided state-of-the-art analytical support to the USTR and Congress that drew on its economic modeling capabilities and international trade and industry expertise. Many of these investigations required the Commission to collect data and generate new databases as relatively little, or no, prior information had been available.
- Completed numerous import-injury investigations: Antidumping and countervailing duty investigations and five-year reviews support a rules-based international trading system by producing high-quality and timely import injury determinations. During FY 2011, the Commission instituted 43 import injury investigations.

The Commission's management team continues to oversee the agency's assessment of internal control over its programs, operations, financial systems, and financial reporting. The Commission's continuous monitoring and evaluation efforts allow us to provide reasonable assurance that the content of this report is based on sound, accurate, and complete data.

We also recognize that we have more to do operationally to ensure that we efficiently manage the resources entrusted to us. The Commission set new management goals for FY 2012 in the areas of financial management, procurement, human resources, and information technology. In FY 2011, the Commission assessed its administrative resources and expertise and began to implement a new financial management structure, specifically creating an office of the Chief Financial Officer. The Commission recently hired a Chief Procurement Officer and is currently recruiting a CFO. These additional resources will help the agency to ensure and improve transparency and accountability in the formulation, execution, performance, and management of agency budgetary resources and thus support the agency's programmatic performance.

Let me close by emphasizing that the Commission's workforce succeeded in fulfilling the agency's mission in FY2011 under challenging conditions, and I have no doubt that they have the commitment and dedication to do so in the years to come.



Deanna Tanner Okun  
February 6, 2011



# Introduction

In its *Annual Performance Report*, (APR) the United States International Trade Commission (Commission or USITC) presents the Commission's performance results for fiscal year 2011. This report is intended to document to the Congress, the President, and the public, that the USITC is fulfilling its mission and is effectively and efficiently using the resources entrusted to it.

The report compares FY 2011 results with the performance goals and measures first published in the USITC's *Annual Performance Plan* for FY 2011, which was included in the agency's FY 2011 *Budget Justification*. After assessing its FY 2010 performance, the USITC revised some of its performance measures and published these revisions with its FY 2012 *Budget Justification*. This report provides an update on agency performance and is intended to satisfy the reporting requirements of the Government Performance and Results Act of 1993 (GPRA) as amended by the GPRA Modernization Act of 2010.

For FY 2011, the USITC chose to publish two reports—an *Agency Financial Report* (AFR) and an APR—instead of a combined *Performance and Accountability Report* (PAR) such as those the agency had produced in previous years. The AFR and APR are available at <http://www.usitc.gov/strategicplan.htm#performance>.

## Mission, Organization, and Strategic Operations

The USITC is an independent, quasi-judicial federal agency with broad investigative responsibilities on matters of trade. The USITC was established by Congress on September 8, 1916, as the U.S. Tariff Commission. In 1974, the name was changed to the United States International Trade Commission by section 171 of the Trade Act of 1974 (19 U.S.C. §2231).



USITC Main Hearing Room

The Commission investigates the effects of dumped and subsidized imports on domestic industries and conducts global and bilateral safeguard investigations. The USITC also adjudicates cases involving imports that allegedly infringe intellectual property rights. Through such proceedings, the agency facilitates a rules-based international trading system. In addition, the Commission serves as a federal resource where information related to trade and trade policy is gathered and analyzed. The information and analyses 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 through its website to the public to promote a better understanding of international trade issues.

## Mission

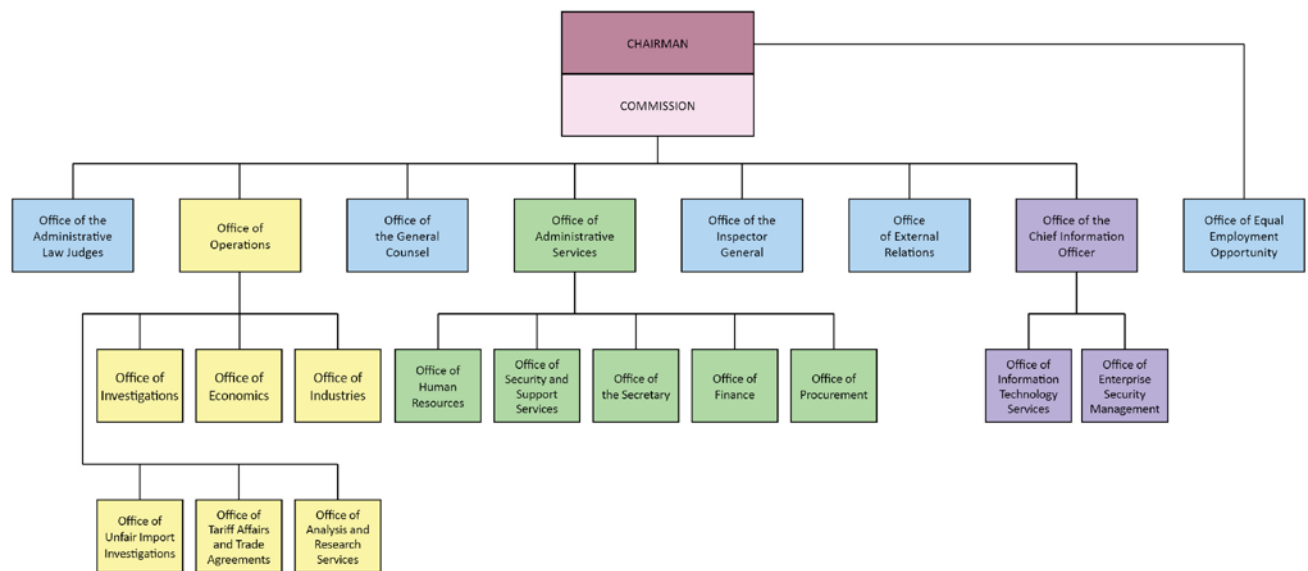
The USITC’s mission is to:

- Administer U.S. trade remedy laws within its mandate in a fair and objective manner;
- Provide the President, USTR, and Congress with independent quality analysis, information, and support on matters relating to tariffs and international trade and competitiveness; and
- Maintain the Harmonized Tariff Schedule of the United States (HTS).

In doing so, the USITC serves the public by implementing U.S. law and contributing to the development of sound and informed U.S. trade policy.

## Organization

### UNITED STATES INTERNATIONAL TRADE COMMISSION Office-Level Organizational Chart



## Commissioners

The USITC is headed by six Commissioners, who are nominated by the President and confirmed by the U.S. Senate. Commissioner Deanna Tanner Okun, the senior Republican, is serving as Chairman of the USITC by operation of law. Commissioner Irving Williamson, a Democrat, is serving as Vice Chairman for the term expiring June 16, 2012. Commissioners serving at the end of FY 2011 were, in order of seniority, Charlotte R. Lane, Daniel R. Pearson, Shara L. Aranoff, and Dean A. Pinkert. On December 8, 2011, David S. Johanson was sworn in as a member of the Commission for a term expiring on December 16, 2018, replacing Commissioner Lane.

Each of the six Commissioners serves a term of nine years, unless appointed to fill an unexpired term. The terms are set by statute<sup>1</sup> 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. A Commissioner may, however, continue to serve after the expiration of his or her term until a successor is appointed and qualified. 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 to serve as the Chairman and Vice Chairman. Currently three Democrats and three Republicans serve as Commissioners.

## USITC Staff

USITC staff is organized into offices designed to support the mission of the agency. These include:

- the Office of Operations (OP), comprising the Offices of Investigations (INV), Industries (IND), Economics (EC), Tariff Affairs and Trade Agreements (TATA), Unfair Import Investigations (OUII), and Analysis and Research Services (OARS);
- the Office of the Administrative Law Judges(OALJ), which holds hearings and makes initial determinations in section 337 investigations;
- the Office of the General Counsel (GC), which serves as the agency's chief legal advisor;
- the Office of External Relations (ER), which serves as the agency's liaison with its diverse external customers;
- the Office of the Chief Information Officer (OCIO), which provides information technology leadership and services for the agency;
- the Office of Administrative Services (OAS) and its subordinate offices, which manage the Commission's budget, finance, procurement, human resources, facilities management, and security activities, and includes the Office of the Secretary (SE);
- the Office of the Inspector General (IG); and
- the Office of Equal Employment Opportunity.

See appendix A for more information on the individual offices of the USITC.

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<sup>1</sup> 19 U.S.C § 1330, Organization of Commission.

## Strategic Operations

While the Commission has one program activity set forth in the Budget of the United States, the Commission has established a performance framework consisting of its mission and five strategic operations. These operations reflect the functions of the Commission, highlighting the diverse 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.

The Commission's strategic operations are—

- Import Injury Investigations (Operation 1)
- Intellectual Property-based Import Investigations (Operation 2)
- Industry and Economic Analysis (Operation 3)
- Tariff and Trade Information Services (Operation 4)
- Trade Policy Support (Operation 5)

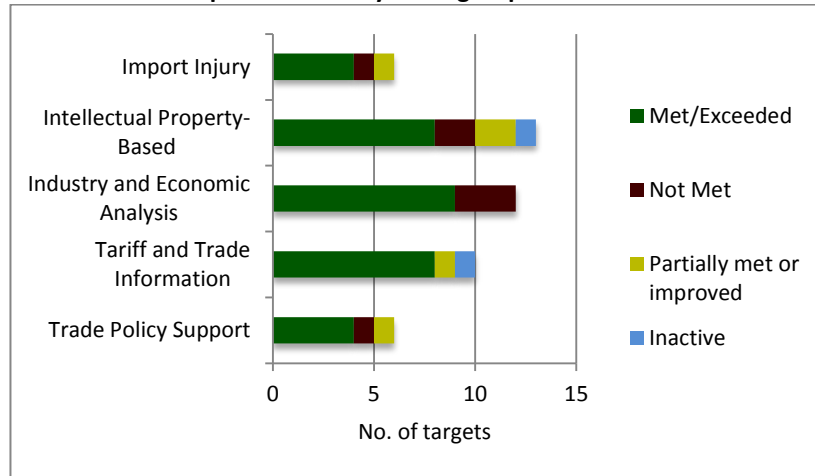
For each of these operations, the USITC's *Strategic Plan*, which covers FY 2009–2014, sets forth a strategic goal, performance goals, and strategies to enable the agency to meet these goals. This framework allows the agency to develop annual measures and targets that provide senior leaders, managers, and stakeholders with data and other information necessary to assess whether progress is being made toward the performance goals and longer-term strategic goals. This information also shapes the budget formulation process for future years.

During FY 2011, the USITC developed an Addendum to its *Strategic Plan*. In addition to revising some of the existing performance goals related to the five Operations, the Addendum sets out new management goals in the following areas: financial management, procurement, human resources, and information technology. These goals address major management challenges facing the agency as well as concerns that are the subject of government-wide initiatives.

## Performance Highlights

The USITC met or exceeded 73 percent of its performance targets in the aggregate in FY 2011. This is in line with the range of results achieved during FY 2007–10, when the agency met or exceeded 71–82 percent of its targets annually. During this five-year period the Commission established new performance goals, measures, and targets. It also set more challenging targets for some existing performance goals. As a result, the aggregate annual results are not fully comparable from one year to the next.

During FY 2011 the Commission continued to focus many of its performance goals and measures on improving the timeliness of its determinations and reports, the effectiveness of information collection, and its analytical capabilities, as well as communication with and outreach to its customers and the general public. Figure 1 shows performance by each of the five operations.

**FIGURE 1 FY2011 performance by strategic operation**

The Commission's ability to meet annual performance targets set for FY 2011 was affected by its increasing investigative activity and uncertainty about its funding levels throughout the first half of the fiscal year. Investigative activity and uncertain funding contributed to agency decisions to redirect resources and defer work in other areas, such as certain research efforts, until FY 2012. The number of investigations that the Commission instituted in FY 2011 was the highest in over a decade. The 22 percent increase over FY 2010 was driven by a 34 percent increase in intellectual property-based import investigations and in import injury investigations. Moreover, the timing of filings and short investigative periods associated with certain import injury investigations presented a challenge. Requests for technical assistance from the USITC's principal legislative and executive branch customers also increased during the fiscal year. Although investigative activity concerning industry and economic analysis investigations did not increase in FY 2011, the scope and complexity of investigative requests challenged the agency's resources. In addition, the Commission responded quickly and efficiently to customer requests for information and analysis in new areas such as the effects of China's intellectual property infringement and indigenous innovation policies on the U.S. economy and the role of global supply chains and the U. S. position in them.

Throughout the year, the Commission monitored performance across its five operations. The agency made progress in improving the organization and accessibility to agency managers of performance information. It also made significant progress with its ongoing effort to upgrade the accessibility of its website and to expand its web-based services. During the year, the Commission finalized plans to require the electronic filing of certain types of documents; the requirement went into effect on November 7, 2011. The Commission also made progress on efforts to use electronic questionnaires for various types of investigations. The shift to electronic-based submissions is expected to lead to efficiency gains. The agency also continued efforts to improve the effectiveness of its external website, as feedback from the public continued to indicate dissatisfaction in a number of areas and performance targets for FY 2011 that were not met. The Commission launched its new website in December 2011. Initial survey feedback indicates that the new website has been well received by the public. Moreover, the agency redirected resources in response to targeted evaluations of its operations that were conducted in FY 2010 and FY 2011. These evaluations are described below.

## Validation and Verification

To assess the progress of the USITC towards achievement of its goals, the agency's performance must be measured and the data must be accurate and reliable. Validation and verification of performance data contribute to the data's accuracy and reliability and help to ensure that the information is credible. Validation ensures that performance data actually measure what they are supposed to measure. Verification involves reviewing and substantiating the accuracy of the data.

The USITC's internal controls require the senior executives who serve as goal leaders for each strategic goal to direct the development and implementation of annual plans for regularly measuring, verifying, and validating performance data on a regular basis. This effort is overseen by the agency's Executive Management Committee and its Strategic Planning Subcommittee.



Exhibits provided by parties during USITC hearings provide an opportunity for Commissioners and staff to see first-hand the products involved in investigations. Here, Chairman Deanna Tanner Okun and Commissioner Dean A. Pinkert examine exhibits before the hearing in the Commission's final phase antidumping and countervailing duty investigation on Aluminum Extrusions from China.

## Program Evaluation

As a small agency, the USITC lacks the resources to conduct comprehensive program evaluations each year. Rather, the agency has conducted targeted reviews. During FY 2011, the USITC continued to carry out changes stemming from a comprehensive review of its Intellectual Property-Based Import Investigations program and initiated and completed a review of its Office of Administration. In addition to these reviews, the agency also undertook a long-term project to evaluate its internal business processes. The agency will use information generated by this effort as a baseline for evaluating the efficiency and quality of its operations. In addition, the agency's IG regularly conducts evaluations of different aspects of the agency's operations. The Commission evaluations and IG evaluations are briefly described below.

### Intellectual Property-Based Import Investigations

The Commission undertook a comprehensive review of Operation 2 during FY 2009–10 in order to find the most effective ways to address significant increases in investigative activity. Based on the information developed during this process, the Commission directed some new resources to several offices involved in this operation and reallocated some other resources within it. As part of this effort, the Commission approved a supplement to the Human Capital Plan in FY 2011 that directs the agency's Office of Unfair Import Investigations (OUII) to implement new staffing approaches, on a trial basis. Under the Plan, OUII is to participate fully in a portion of investigations, partially in some investigations, and refrain from participating at all in certain other investigations, thus focusing resources on issues where the participation of an OUII attorney provides the most value to the Commission.

## Administrative and Financial Functions

In FY 2011, the Commission began and completed an evaluation of its Office of Administration, which supports all five strategic Operations. The Commission, using the findings of this evaluation, began taking actions to realign resources during the year. Specifically, the Commission supplemented its Human Capital Plan to restructure substantially its financial and administrative functions to ensure optimal performance in supporting the USITC's mission. The USITC expects to complete the realignment of its financial, procurement, and budgeting functions during FY 2012.

## Inspector General Evaluations

During FY 2011, the Office of the Inspector General (OIG) completed two evaluations of Commission operations:

- [\*Sunset Review: Evaluation of the Adequacy Phase\*](#)
- [\*Evaluation of Pre-Filing & Pre-Institution of Section 337 Investigations\*](#)

During FY 2011, the OIG examined the procedures used by staff to produce the adequacy memorandum for the Commissioners during the adequacy phase of sunset reviews. The OIG concluded that the Office of Investigations did not have a standard procedure to follow consistently when producing the adequacy memorandum for the Commissioners. Management is taking steps to address the issues/recommendations noted in the OIG audit report.

The OIG also examined the efficiency of two processes relating to Section 337 complaints—the informal pre-filing review process that is available to prospective complainants and the pre-institution process utilized by the Commission in assessing the sufficiency of new complaints. The OIG concluded that both processes were an efficient use of Commission resources.

## Organization of Report

The remainder of this report consists of five sections—one for each strategic operation. Each section presents the Commission's strategic goal for that operation, along with associated performance goals, and annual measures and targets. The sections highlight significant accomplishments, as well as areas in which the agency did not meet its performance goals and annual targets. The sections also identify areas in which the agency will seek to improve performance in FY 2012 and future years.





# Operation 1: Import Injury Investigations

## Overview

The Commission's strategic goal for Operation 1 is to:

Support 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 parties; an appropriate investigative record; and transparent, fair, and equitably implemented procedures.

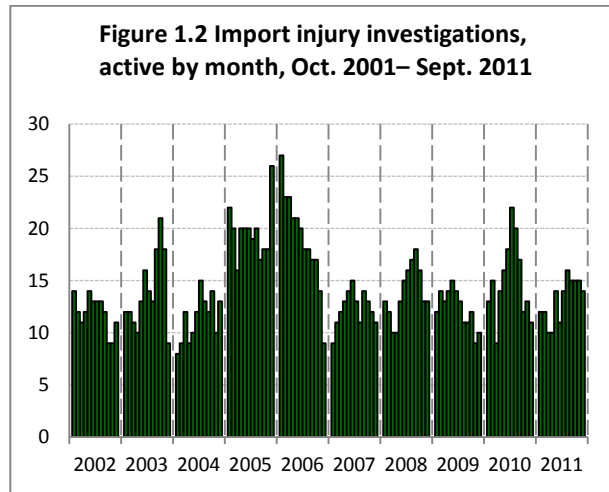
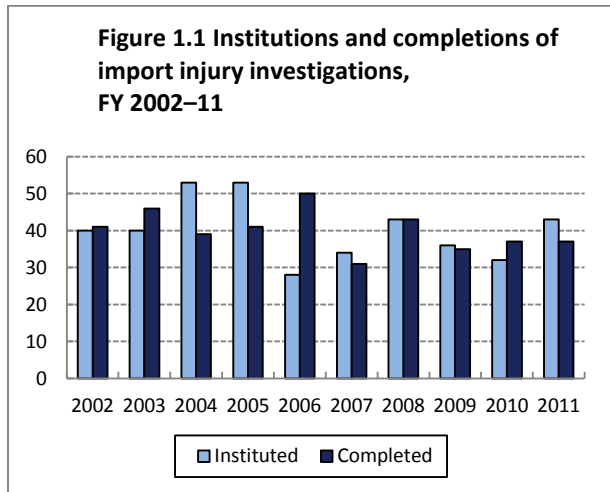
While maintaining timeliness and meeting all statutory deadlines, the Commission has set performance goals and annual measures and targets to continue to improve its investigative process to increase efficiency, reduce the burden on industry participants in investigations, and make data and other information from import injury investigations more accessible. The Commission met or exceeded four of the six targets it set for FY 2011, while partially meeting another target.

Operation 1 covers the Commission's statutory investigations into the effects of unfairly traded imports or an increase in imports on a U.S. industry and appellate litigation to defend Commission decisions. These include:

- Antidumping and Countervailing Duty (AD/CVD) investigations, five year (sunset) reviews, and changed circumstances reviews under title VII of the Tariff Act of 1930;
- global safeguard and market disruption investigations under sections 202, 204, 406, 421, and 422 of the Trade Act of 1974;
- safeguard investigations pursuant to various statutes implementing free trade agreements (FTAs) (e.g., 19 U.S.C. §§ 3805 note, 4061); and
- World Trade Organization (WTO) consistency proceedings requested by USTR, as provided in section 129(a)(4) of the Uruguay Round Agreements Act (URAA).

Managing the Operation 1 workload presents several challenges. The workload is determined by the number and complexity of ongoing investigations, both new filings and reviews of existing orders. However, while the number of review investigations can be estimated in advance, estimating the number of new filings is more difficult. Moreover, since the Commission must institute new investigations as soon as new petitions are filed and deadlines are dictated by statute, the agency has only limited control of its schedule. As a result, its workload can be very uneven with peak periods of work for different cases overlapping. During FY 2011, for example, while the number of institutions and completions was generally consistent with historical averages, the overall workload was higher than in FY 2010 (figure 1.1). In addition, an unprecedented five new petitions filed within a two-day period stretched resources and challenged the agency's ability to meet statutory deadlines, as preliminary investigations must be completed within 45 calendar days and there is virtually no flexibility with deadlines (figure 1.2).

In all, the Commission instituted 43 cases in FY 2011, with almost three-quarters of the cases consisting of review cases; 37 cases were completed, with more than half of these completions being review cases.<sup>2</sup> The Commission’s performance is described below.



## Improving the Quality and Efficiency of Investigations

Commission import injury determinations affect interested parties, businesses, and communities, both throughout the United States and overseas. Because these determinations are based on data and information contained in staff reports and memoranda, ensuring accuracy and thoroughness in these documents is essential. Compiling a clear, complete record of information for each import injury investigation is vital to ensure transparency and sound determinations. Performance Goal 1 is intended to ensure that effective documentation is supplied, and an appropriate record compiled, for every investigation. During FY 2011, the Commission met its target with regard to Performance Goal 1.

<b>Performance Goal 1: Improve the quality and efficiency of the investigative process by conducting internal and external reviews, including review of draft investigation and litigation documents.</b>					
FY 2011 Measure a. Written feedback from Commissioners and their aides concerning staff efforts to compile the record and to identify, explain, and analyze important factual and legal issues.			FY 2012 Measure a. Written feedback from Commissioners and their aides concerning staff efforts to compile the record and to identify, explain, and analyze important factual and legal issues.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
Meet or exceed 80% positive feedback					Meet or exceed 82% positive feedback
Target met	Target met	Target met	Target met	Target met	
Performance indicator and data source: Commissioner feedback reported by GC and INV.					

<sup>2</sup> Case numbers reported in the text and in figures 1.1 and 1.2 represent the number of grouped investigations such that investigations involving dumping and subsidy allegations and/or multiple countries are counted as one case. For example, in FY 2011, the Commission conducted AD and CVD investigations on Bottom Mount Combination Refrigerators-Freezers from Korea and Mexico (Inv. Nos. 701-TA-477 and 731-TA-1180 and 1181 (Preliminary)). While there were three investigations (AD investigations on Korea and Mexico and CVD investigation for Korea), the Commission counts this as one case.

The primary measure for Performance Goal 1 is a feedback survey issued to Commissioners for each import injury investigation. Commissioners rate the effectiveness of the staff investigative report, staff responsiveness to questions or requests for additional information, briefings with Commissioners and/or their staff, and the legal analysis and opinion writing processes. For FY 2011, this goal was met as Commissioners reported being satisfied 89 percent of the time.

Accuracy, thoroughness, and excellent quality of data and other information are essential traits of the staff documents so that the Commission bases its determinations on the best information available. Feedback from the Commissioners gives management and staff valuable information on how to improve the process and the reports. As a result, Operation 1 managers regularly examine the data obtained from Commissioner surveys and see to it that survey comments and suggestions are incorporated into standard procedures or report templates as appropriate.

While Commissioner feedback has been collected and addressed for a number of years, enhancements were made in FY 2011 in particular to improve the response rate and the usefulness of the feedback. Originally, feedback consisted of narrative comments; in FY 2009, the Commission began using a more structured paper survey. During FY 2011, a revised electronic survey was created to collect more specific information on Commissioner satisfaction. This survey significantly increased the response rate and provided better feedback, which will aid staff in improving the process of conducting import injury investigations.

## Meeting Statutory and Administrative Deadlines

Timely action and compliance with applicable laws and court orders have always been and will continue to be a critical goal for the Commission. Delays would have a negative impact on the parties involved and would disrupt the actions of other agencies that have statutory responsibilities related to these investigations. Performance Goal 2 is intended to ensure that the Commission is meeting the deadlines for import injury investigations. For FY 2012, the measurement tool for this goal has been modified to align more closely with both the goal itself and Operation 1’s strategic goal: that is, the Commission’s target will focus on statutory and court deadlines, not internal ones.

Performance Goal 2: Meet statutory, court, and administrative deadlines. <sup>a</sup>					
FY 2011 Measure			FY 2012 Measure <sup>a</sup>		
a. Submit reports, determinations, memoranda, draft opinions, and briefs on time.			a. Submit reports, determinations, memoranda, draft opinions, and briefs by the statutory or court deadline.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
100%					
Target met	Target met	Target not met <sup>b</sup>	Target met	Target partially met <sup>b</sup>	
Indicator and data source: Dates of issuance reported by GC and INV.					

<sup>a</sup>The measure for Performance Goal 2 was modified for FY 2012 to more closely align with the stated goal.

<sup>b</sup>In FY 2009 and FY 2011, the Commission did not meet its target because in each year an internal deadline was missed. In FY 2011, the Commission began to distinguish between targets that were met or exceeded; those that were partially met; those that were not met, but showed significant improvement; and those that were not met.

Historically, as the chart shows, the Commission has generally met this goal. During FY 2011, the Commission generally met Performance Goal 2, in that 100 percent of reports, determinations, and draft opinions were submitted on time. However, the target was not met in its entirety as one legal issues memorandum (for internal distribution) was issued one day late. As noted earlier, during FY 2011 the Commission received an unprecedented five new petitions in a two-day period; since the investigative period is set by statute, there is little flexibility with regard to deadlines. The one late legal issues memorandum was one of the five that were due on the same day.

**TABLE 1.1 Number of documents issued on time, FY 2006–11<sup>a</sup>**

Item	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Determinations	49	30	44	37	37	36
Prehearing Reports	27	12	21	17	22	14
Staff Reports	44	34	40	36	37	36
Legal issues memoranda	48	30	42	35	37	34
Opinions	48	30	44	37	37	37
Briefs	12	23	19	15	10	10

Source: INV and GC

<sup>a</sup>In FY 2009 and FY 2011, one internal memorandum was issued after deadline.

## Improving Information Collection

The Commission looks for ways to improve its investigation processes to ensure that import injury determinations are based on an effective exchange of information between the agency and interested parties, and that procedures are efficient and fair, resulting in sound and timely determinations. Performance goal 3 is intended to ensure that the Commission’s processes and procedures for import injury investigations are subject to ongoing evaluation, with improvements made on a continuous basis. Changes in the process often are implemented incrementally, and must be evaluated in terms of factors such as the effects on interested parties and the security of confidential data. The Commission has made progress in this area each year over the past several years, and in FY 2011, it completed or began implementing several significant improvements. In addition, during FY 2011, the Commission was granted authority by OMB to issue feedback surveys on an expedited basis to external parties on Operation 1 process and procedures; in FY 2012, the Commission will conduct a biennial survey of investigation participants on investigative procedures and will use the results to make further refinements to its procedures in FY 2012 and beyond.

Performance Goal 3: Improve the development of investigative records.					
FY 2011 Measure a. Make progress on improving methods of gathering and processing investigative data, such as streamlining questionnaires.			FY 2012 Measure a. Make progress on improving methods of gathering and processing investigative data, taking into account results of biennial survey of investigation participants regarding investigative procedures.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
Progress made					
Target met	Target met	Target met	Target met	Target met	
Indicator and data source: Improvements implementation reported by INV and ITS.					

During FY 2011, the Commission made progress in improving the development of investigative records. One important area of improvement has involved the methods for gathering information from investigation participants. The majority of the data used by the Commission to make injury determinations in import injury investigations comes from questionnaires, which are sent to participants in the industry concerned. In FY 2011, the Commission reviewed its questionnaires in an attempt to reduce the burden on responding firms; as a result, it eliminated unnecessary questions and streamlined remaining ones. The Commission also took significant steps towards improving the efficiency of data collection while reducing the time burden for firms. For example, it increased its use of email to send questionnaires to industry participants, a change that gets questionnaires to responding firms more quickly while reducing the Commission's paper consumption and mailing costs. The Commission also set up a secure dropbox that companies can use to electronically upload and submit completed questionnaires rather than sending them via regular or express mail. Using the dropbox can save money for firms by reducing their paper/printing and mailing costs.



Field visits are another method of information-gathering used in USITC investigations. Visits to factories and processing plants that produce the goods under investigation help Commissioners and staff develop a solid understanding of the industries and conditions of competition involved in its investigations. Here, Commissioner Shara L. Aranoff, Benjamin Caryl (Counsel to Commissioner Charlotte R. Lane), John Davitt (Economist for Vice Chairman Irving A. Williamson), Chairman Deanna Tanner Okun, and Dana Lofgren (Counsel to Chairman Okun) (l-r) listen as David Voy, Director of Operations, (center) describes quality control operations during a tour of a Mannington Mills, Inc., factory in High Point, NC, in connection with the USITC's antidumping and countervailing duty investigation on Multilayered Wood Flooring from China.

The Commission also has taken steps to make its own handling of questionnaires and reports more efficient. After careful testing, it is now using new data extraction techniques to pull data from electronically submitted questionnaires directly into spreadsheets, thus reducing the time spent by Commission staff manually entering the data. The Commission has also streamlined the internal process of distributing draft reports for internal review by circulating them electronically instead of distributing paper copies. Finally, the Commission has begun to use the secure upload capability at the Department of Commerce to deliver completed reports and determinations. This procedural change saves time as well as paper/printing and delivery costs.

## Improving Transparency and Access to Information

Access to information and a sound understanding of applicable statutes and the Commission's procedures is an important component of the strategic goal for Operation 1 as the agency strives to follow transparent, fair, and equitable procedures. Performance goal 4 is intended to ensure that the Commission's import injury processes and procedures are transparent to interested parties and the general public. The measures used to evaluate the Commission's performance in this regard are important in demonstrating that the information

that the Commission offers the public (via the website) or interested parties to investigations (via the agency’s Electronic Document Information System (EDIS)) is readily available and informative. USITC staff’s outreach efforts help potential participants in import injury proceedings in their interactions with the agency.

<b>Performance Goal 4: Improve the scope, quality, and transparency of information regarding investigations that is made available to investigative participants and the public.</b>					
FY 2011 Measure a. Achieve improvement over the FY 2010 level of satisfaction reported by users of the Commission’s import injury webpages.			FY 2012 Measure a. Achieve improvement over the FY 2011 level of satisfaction reported by users of the Commission’s import injury webpages.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
2% improvement		1-point improvement			
Target met	Target not met	Target not met	Target met	Target not met	
Indicator and data source: Level of satisfaction reported by ITS.					
FY 2011 Measure b. Staff conducts outreach to industry groups and others to ensure they understand Commission capabilities and process.			FY 2012 Measure b. Staff conducts outreach to industry groups and others to ensure they understand Commission capabilities and process.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Outreach conducted	
				Target met	
Indicator and data source: Number of outreach initiatives reported by INV.					
FY 2011 Measure c. Make documents filed on EDIS available promptly.			FY 2012 Measure c. Make documents filed on EDIS available promptly.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
75% availability in 24 hours, 85% in 48 hours				80% availability in 24 hours 90% in 48 hours	
Target not met	Target met	Target met	Target met	Target met	
Indicator and data Source: Time of document availability reported by OAS.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

The Commission had mixed results with regard to meeting the various measures of performance goal 4. It did not achieve improvement over the FY 2010 level of satisfaction reported by users of the Commission’s import injury webpages. Based on Foresee survey results, in FY 2011, the compiled user satisfaction score for the Commission’s import injury webpage was 63, versus 65 for FY 2010. As seen in the tabulation below, user satisfaction with the import injury website has fluctuated since FY 2007.

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Foresee satisfaction score for import injury webpages	71	66.2	62	65	63

The Commission deployed a revised website in FY 2010, which likely helped increase satisfaction levels to 65 in that year. However, the satisfaction level fell slightly to 63 in FY 2011. The pages scored higher in the areas of likelihood to return (79), content (76) and likelihood of recommending the site (72); lower scores were received for navigation (64) and search (64).

Meanwhile, disappointing results regarding user satisfaction with the Commission's overall website during FY 2011 prompted the Commission to review the site, focusing on attributes such as navigation as well as content, and fully update it; the new site was deployed in December 2011. The Commission anticipates that the enhancements made to the website will improve satisfaction levels, which will continue to be measured through the Foresee survey tool in FY 2012.

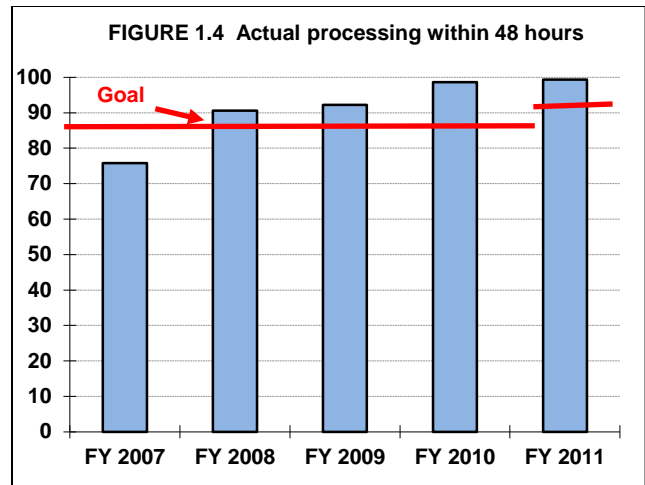
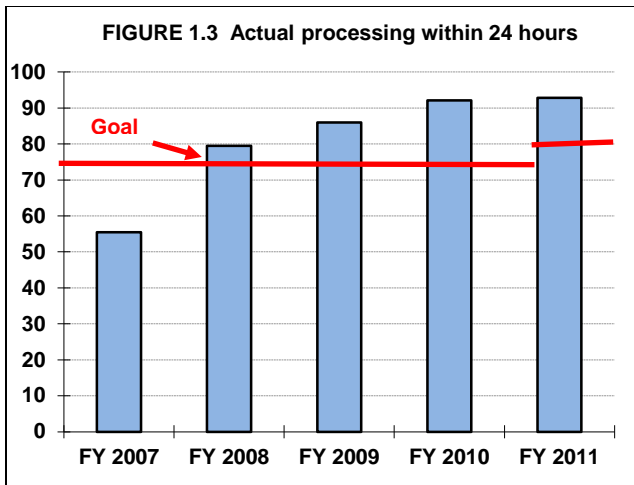
Performance measure 4 (b) was set in FY 2011 to track the Commission's outreach to assist potential participants in import injury proceedings in their interaction with the agency. While this is a new measure for FY 2011, the Commission has performed outreach and provided information on import injury investigations to the general public for many years. During FY 2011, the Commission conducted numerous contact/outreach efforts with other U.S. government agencies, including the Department of Commerce and the Department of Homeland Security (Customs and Border Protection). The Commission also provided information on the procedures governing import injury investigations to various U.S. industry representatives as well as to representatives of several foreign governments, including Brazil, China, Pakistan, Taiwan, and Vietnam. In addition to formal presentations on import injury investigations, Commission staff responded to numerous inquiries via phone or email.

The Commission met its targets with regard to availability of record investigation materials. In FY 2011, 92.8 percent of documents were processed and posted on EDIS within 24 hours of filing and 98.4 percent were available within 48 hours (figures 1.3 and 1.4). This target was met despite the fact that the bar was set higher for FY 2011. During the past four years, the Commission has met its targets of providing a swift electronic channel for exchanging information between the Commission and parties via EDIS, even with significant fluctuations in investigative activity in Operations 1 and 2. As a result of changes in the functioning of EDIS and the business process for handling documents, processing rates improved significantly in FY 2010. As a result, the availability targets for FY 2011 were increased from those in effect for FY 2007–10; they rose from 75 percent availability in 24 hours and 85 percent availability in 48 hours to 80 percent availability in 24 hours and 90 percent availability in 48 hours for FY 2011 and 2012.

In FY 2011, the Commission finalized plans to require most import injury-related documents to be filed electronically. The requirement went into effect shortly after the end of the fiscal year. Upgrades were made to EDIS to allow both public and confidential documents to be submitted by external filers. The Commission adopted these new e-filing procedures to reduce costs for the agency and to improve the efficiency and effectiveness of the filing process.<sup>3</sup>

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<sup>3</sup> See [Rules of General Application, Safeguards, Antidumping and Countervailing Duty, and Adjudication and Enforcement](#) and [USITC Handbook on Filing Procedures](#).





# Operation 2: Intellectual Property-based Import Investigations

## Overview

The Commission's strategic goal for Operation 2 is to:

Conduct intellectual property-based import investigations in an expeditious, technically sound, and transparent manner, and provide for effective relief when relief is warranted, to support a rules-based international trading system.

Operation 2 is focused upon the adjudication of complaints brought under section 337 of the Tariff Act of 1930 that allege infringement of U.S. intellectual property rights (IPR) and other unfair methods of competition by imported goods.<sup>4</sup> These investigations are usually based on claims of patent infringement, and often involve complex technologies and multiple accused infringers. The proceedings are conducted in accordance with the Administrative Procedure Act, which gives the parties the opportunity to conduct discovery of evidence, to present evidence, and to make legal arguments before the administrative law judges (ALJs) and the Commission.<sup>5</sup> The procedures employed in these investigations are designed to offer the parties timely adjudications and to take into account the public interest.

The Commission's Operation 2 activities extend beyond the initial adjudication of complaints alleging violations of section 337. Although Customs and Border Protection (Customs) is responsible for enforcing the primary remedy available for a section 337 violation, which is an exclusion order prohibiting infringing imports from entering the United States, the Commission works to support enforcement by conducting enforcement, modification, and advisory opinion proceedings regarding outstanding remedial orders, and communicating with Customs, among other activities. The Commission also defends its determinations under section 337 in appellate proceedings before the U.S. Court of Appeals for the Federal Circuit.

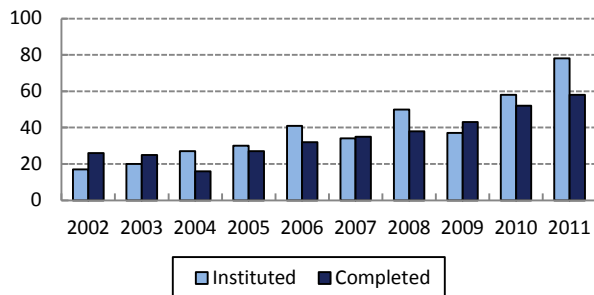
The Commission's section 337 docket increased by over 350 percent over the past decade, as patent holders have increasingly sought relief under section 337 for infringement involving imported goods. On the heels of a record year for section 337 complaint filings in FY 2010, the level of investigations instituted based on new complaints rose again, by more than 34 percent, in FY 2011. During the year, the Commission instituted 70 new investigations, as well as 8 new ancillary proceedings (figure 2.1). In total, 129 investigations and ancillary proceedings were active during the course of the year, as compared to 103 in FY 2010. As shown by the figures below, the number of new investigations per year has increased dramatically since FY 2002, and the growth in new filings has been most pronounced in the last two years. The number of active investigations per year has increased correspondingly over the 10-year period (figure 2.2).

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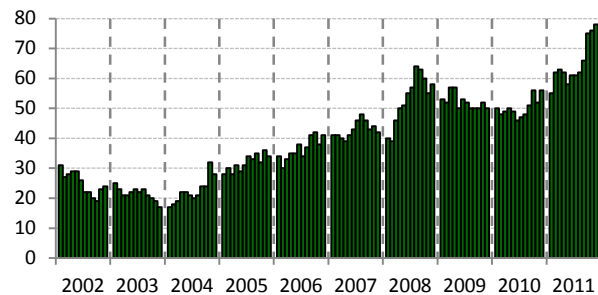
<sup>4</sup> 19 U.S.C. §1337.

<sup>5</sup> 5 U.S.C. §§551 et seq.

**FIGURE 2.1 Institutions and completions of intellectual property-based import investigations and ancillary proceedings, FY 2002– 11**



**FIGURE 2.2 Intellectual property-based import investigations and ancillary proceedings, active by month, Oct. 2001–Sept. 2011**



Not only has the number of new complaints grown at an exceptional rate, but the complexity of the investigations has also intensified, given that investigations brought by patent holders in the telecommunications industry and other complex technology areas have dominated the docket. These investigations have increasingly involved large numbers of respondents, as well as a great many asserted patents and claims. The strain on Commission resources caused by the volume of new and on-going investigations was compounded during FY 2011 by the retirements of two of the Commission's six ALJs in the latter part of the year. Also, as the caseload has climbed, the demand for courtroom space for section 337 evidentiary hearings and other proceedings has risen as well. While the building of an additional courtroom was delayed due to budget uncertainty for much of FY 2011, work is now proceeding so that the new courtroom should be completed and available for hearings before the end of FY 2012.

Notwithstanding the extraordinary growth in the section 337 caseload, particularly in the last two years, and the resulting pressure on personnel who work on section 337 matters, the Commission continued to meet the majority of its targets for Operation 2 in FY 2011. Twelve of the 13 targets for this operation were applicable this year, and 8 of these targets were fully met this year. With regard to two of the four targets that were not met, the Commission made significant progress on one and partially met the other. Both of these targets involved the length of section 337 proceedings.

In addition to investigative activities, as contemplated in the FY 2011 *Annual Performance Plan*, the results of the third exclusion order survey conducted by the Commission were shared with Customs and posted on the Commission's website. The Commission also completed a rulemaking proceeding during the year regarding new procedures to aid the development of fuller records on public interest issues, which culminated in the publication of final rules regarding public interest submissions and procedures on October 19, 2011.<sup>6</sup> In addition, the Commission issued a Supplement to its *Strategic Human Capital Plan* in January 2011 that focused on the staffing of section 337 investigations.<sup>7</sup> In recognition of the substantial caseload increases in recent years as well as agency resource constraints, the plan added positions in the Office of ALJs and the Office of General Counsel (GC), while implementing new staffing approaches, on a trial basis, in the Office of Unfair Import Investigations (OUII) that involved reducing OUII's level of participation in a substantial number of investigations. Also, to improve data collection and assessment of resource needs relating to Operation 2,

<sup>6</sup> The Federal Register notice regarding these new rules can be accessed at [http://usitc.gov/secretary/fed\\_reg\\_notices/rules/finalrules210.pdf](http://usitc.gov/secretary/fed_reg_notices/rules/finalrules210.pdf).

<sup>7</sup> The Supplement to the Strategic Human Capital Plan 2009–2013, issued by the Commission on January 18, 2011, can be accessed at [http://www.usitc.gov/intellectual\\_property/documents/2009\\_13\\_SHCP.pdf](http://www.usitc.gov/intellectual_property/documents/2009_13_SHCP.pdf).

during FY 2011 the Commission embarked on a project to centralize and expand the data collected on section 337 proceedings. As a result, the Commission expects to roll out a new section 337 database that will make more information available to the public, as well as to agency management and other internal users, on the Commission website during FY 2012.

Each of the performance goals for Operation 2 and the Commission's experience in meeting those goals is discussed below.

## Meeting Statutory and Administrative Deadlines and Improving Timeliness

Performance Goal 1 focuses on timeliness and expedition in the administration of section 337 proceedings. This focus reflects the fact that intellectual property holders often file complaints under section 337 because they desire a speedy resolution to their dispute. Such disputes often take many years to resolve in other forums. Speed of adjudication is highly valued in areas where technology changes rapidly, such as telecommunications, which account for a large portion of the section 337 docket. Speed is also desired because pending intellectual property disputes can lead to uncertainty in the marketplace that can affect customer purchasing decisions and strategic business decisions. Although not all of the targets for Performance Goal 1 were met, as discussed below, the Commission came close to meeting the three targets that it did not fully satisfy in FY 2011.

The first measure for Performance Goal 1 reflects the importance of ensuring that the ALJs, the Commission, and other staff who work on section 337 investigations continue to adhere to schedules that are designed to promote rapid adjudications. Specifically, this measure concerns adherence to important deadlines governing the institution of investigations, the establishment of target dates, the issuance of initial determinations (IDs) and final determinations by the judges and the Commission, respectively, and the filing of appellate briefs. In FY 2007 and 2008, deadlines for establishing target dates and issuing final IDs were missed in very few instances; in FY 2009 and 2010 all of these deadlines were met. In FY 2011, all of the deadlines listed for this measure were met with respect to 125 of the 129 investigations active during the year. Two of the remaining investigations were resolved at a very early stage, one by withdrawal of the complaint and the other through an early dispositive default motion. In a third investigation, the parties moved for termination based upon a settlement on the day the ID was due. The fourth case was delayed because the assigned ALJ retired. Thus, as in prior years, with very few exceptions the deadlines specified in the first measure were satisfied in FY 2011.

The second measure for Performance Goal 1 also focuses on speed of adjudication. It seeks to ensure that the average length of section 337 investigations is within timeframes that are consistent with those achieved before mandatory time limits for the completion of investigations were removed from the statute pursuant to the Uruguay Round Agreements Act (URAA) on December 31, 1994, and consistent with Congressional direction in the URAA implementing report to conclude each investigation at the earliest practicable time, which Congress expected to be approximately the same amount of time as the pre-URAA practice.<sup>8</sup>

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<sup>8</sup> S. Rep. No. 103-412, at 119 (1994).

<b>Performance Goal 1: Meet statutory and key administrative and court deadlines, conclude Section 337 investigations expeditiously, and reduce the average time to conclude ancillary proceedings.</b>					
FY 2011 Measure a. Institute investigations; set target dates; and file TEO and final IDs, TEO and final determinations, and court briefs on time.			FY 2012 Measure a. Institute investigations; set target dates; and file TEO and final IDs, TEO and final determinations, and court briefs on time.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
100% of actions timely					
Target not met	Target not met	Target met	Target met	Target partially met <sup>a</sup>	
Indicator and data source: Institution, target dates set, and documents filed within deadlines, as reported by OUII and GC.					
FY 2011 Measure b. Conclude investigations into alleged section 337 violations within timeframes that are consistent with the URAA.			FY 2012 Measure b. Conclude investigations into alleged section 337 violations within timeframes that are consistent with the URAA implementing report.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
Average length of investigations is within timeframes					
Target not met	Target not met	Target not met	Target not met	Target not met, but improvement achieved	
Indicator and data source: Investigation length is within identified timeframes, as reported by OUII and GC.					
FY 2011 Measure c. Ensure that the average length of ancillary proceedings is no more than the following: (1) modification: 6 months (2) advisory: 12 months (3) enforcement: 12 months (4) consolidated ancillaries: 15 months			FY 2012 Measure c. Ensure that the average length of ancillary proceedings is no more than the following: (1) modification: 6 months (2) advisory: 12 months (3) enforcement: 12 months (4) consolidated ancillaries: 15 months		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
Average length of proceedings is within timeframes shown in measures <sup>b</sup>					
Target 1 N/A Target 2 N/A Target 3 met Target 4 N/A	Target 1 N/A Target 2 met Target 3 N/A Target 4 N/A	Target 1 N/A Target 2 N/A Target 3 not met Target 4 met	Target 1 N/A Target 2 met Target 3 not met Target 4 N/A	Target 1 not met Target 2 met Target 3 met Target 4 N/A	
Indicator and data source: Length of proceedings is within deadlines reported by OUII and GC.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

<sup>a</sup>As noted in the text, the Commission generally has met this target over the years. In FY 2011, the Commission began to distinguish between targets that were met or exceeded; those that were partially met; those that were not met, but showed significant improvement; and those that were not met.

<sup>b</sup>The timeframes for FY 2007–10 are the same as those for FY 2011 and 2012.

Before the URAA was passed, the statute required section 337 investigations to be completed in 12 to 18 months. During the three-year period before the URAA was enacted, the average time for completing 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.<sup>9</sup> Not surprisingly, adherence to the pre-URAA timeframe has proven to be a challenge, as the number of new complaints and the complexity of the resulting investigations has sharply increased. The difficulty is evident in table 2.1 below, which summarizes the length of investigations for each of the last five years. However, despite an exceptionally heavy caseload and a record number of new complaint filings, the Commission came very close to meeting the 13.5-month target in FY 2011, with a 13.7 month average for completion of investigations that concluded with a final determination on the merits. This average length for investigations concluded in FY 2011 is well below that experienced in the previous four years, during which the average length of investigations increased each year. Actions taken by the Commission to achieve and sustain the reduction in the average length of investigations achieved this year include the recent addition of staff in the Office of the ALJs and GC, the planned addition of a new courtroom in FY 2012, and the establishment of mediation as a formal Commission program.

**TABLE 2.1 Length of investigations, FY 2007–11**

Fiscal Year	Investigations completed <sup>a</sup>	Completion time (in months)		
		Shortest	Longest	Average
2007	12 (3 instituted in 2005, 9 in 2006)	8.0	23.5	16.6
2008	15 (5 instituted in 2006, 9 in 2007, 1 in 2008)	6.0	28.0	16.7
2009	16 (1 instituted in 2006, 6 in 2007, 9 in 2008)	3.5	28.5	17.9
2010	22 (1 instituted in 2004, 1 in 2007, 11 in 2008, 8 in 2009, 1 in 2010) <sup>b</sup>	6.4	25.4 <sup>b</sup>	18.4
2011	17 (1 instituted in 2008, 1 in 2009, 12 in 2010, 3 in 2011)	5.2	24.2	13.7

Source: Office of Unfair Import Investigations.

<sup>a</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. The data also do not include ancillary proceedings.

<sup>b</sup>One investigation that concluded in FY 2010 had been pending since 2004. Because of the anomalous length of this investigation, which involved protracted district court subpoena enforcement proceedings as well as a subsequent remand back to the ALJ by the Commission, this investigation was not included in calculating the average length of investigations that concluded during FY 2010.

The last measure for Performance Goal 1 is focused on the length of time it takes the Commission to complete advisory opinion, modification, and enforcement proceedings, which play an important role in the enforcement of Commission remedies. While the establishment of target dates is not statutorily required for advisory opinion and modification proceedings, the Commission adopted timeliness goals for these ancillary proceedings, as well as for enforcement proceedings, beginning in FY 2004, so that these proceedings would not become unduly long.

Four ancillary proceedings were completed in FY 2011. The target timeframes set for enforcement and advisory opinion proceedings were met in FY 2011, with two enforcement proceedings concluding in an average of 9.0 months and one advisory opinion proceeding concluding in only 3.8 months. The one modification proceeding completed during the year concluded in 6.4 months, close to the 6.0 month target for this type of ancillary proceeding. These results compare favorably with those of the prior two years, when enforcement proceedings were concluded in 13.8–21.3 months. Thus, as with the target for the average length of original investigations, the FY 2011 results indicate progress toward achieving the targets for ancillary proceedings.

<sup>9</sup> In total, 36 new section 337 investigations were commenced during this three-year period, and only 13 of those investigations were ultimately litigated to a final decision on the merits.

## Improving Transparency and Access to Information

Access to information and a sound understanding of applicable statutes and the Commission’s procedures is an important component of the strategic goal for Operation 2, which the agency strives to achieve by conducting its investigations in a “technically sound and transparent manner . . . to support a rules-based international trading system.” Performance Goal 2 is focused on improving the scope, quality and transparency of information regarding section 337 investigations available to litigants and the public.

<b>Performance Goal 2: Improve the scope, quality, and transparency of information regarding section 337 investigations that is made available to investigative participants and the public.</b>					
FY 2011 measure a. Achieve improvement over the FY 2010 level of satisfaction reported by users of Commission intellectual property infringement webpages.			FY 2012 measure a. Achieve improvement over the FY 2011 level of satisfaction reported by users of Commission intellectual property infringement webpages.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
2% improvement		1-point improvement			
Target not met	Target not met	Target met	Target met	Target not met	
Indicator and data source: Satisfaction level reported by ITS.					
FY 2011 measure b. Make documents filed on EDIS available promptly.			FY 2012 measure b. Make documents filed on EDIS available promptly.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
75% availability in 24 hours, 85% in 48 hours			80% availability in 24 hours, 90% in 48 hours		
Target not met	Target met	Target met	Target met	Target met	
Indicator and data source: Time of document availability reported by OAS.					
FY 2011 measure c. Staff conducts outreach to bar groups and others to ensure they understand Commission capabilities and process.			FY 2012 measure c. Staff conducts outreach to bar groups and others to ensure they understand Commission capabilities and process.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Outreach efforts made	
				Target met	
Indicator and data source: External contacts made, as reported by OUII and GC.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

The first measure for Performance Goal 2 concerns the level of user satisfaction with the Commission’s intellectual property infringement webpages, which are intended to offer the public a substantial amount of information about section 337 proceedings. This page includes links to a variety of resources, including the [Section 337 Investigational History](#) database, which was regularly updated and supplemented through FY

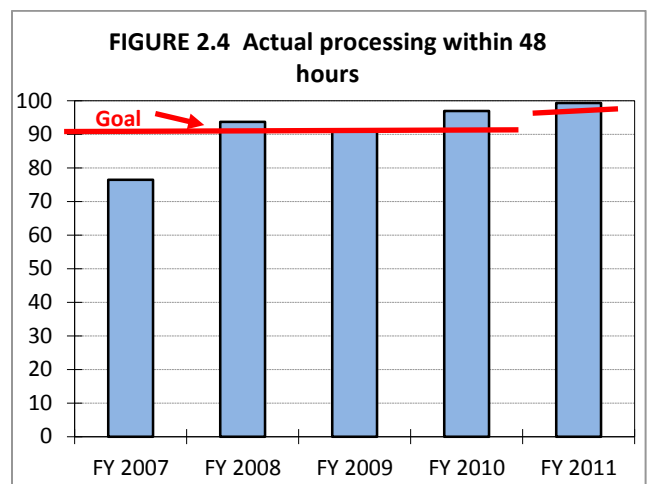
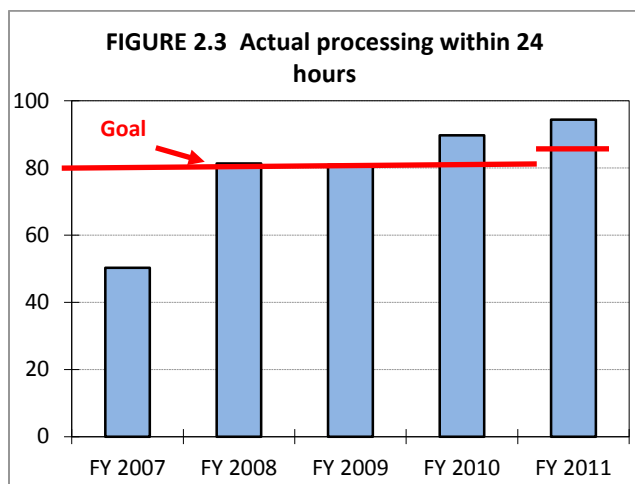
2011, and the [Section 337 Frequently Asked Questions](#) pamphlet, which was most recently updated in FY 2009. This webpage utilizes the Foresee survey tool to gauge user satisfaction with the intellectual property page and other sections of the Commission website. As can be seen from the following tabulation, satisfaction scores for the intellectual property webpages have seesawed in the last five years, reaching a high of 63 in FY 2010 and then dropping back to 57 in FY 2011. Thus, in FY 2011 the Commission did not meet its goal of achieving a 1 point improvement over the FY 2010 satisfaction score for these webpages.

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Foresee satisfaction score for intellectual property webpages	62	53.5	56	63	57

As noted in the Import Injury section (above), the Commission took action to address user dissatisfaction by deploying a substantially revised website in December 2011. The agency plans to enhance the content it provides on the intellectual property webpages in FY 2012.

The second measure pertaining to Performance Goal No. 2 focuses upon EDIS. As noted in the earlier discussion of Operation 1, the Commission provides an electronic option for filing documents with the Commission and gives real-time public access to information and updates via the Internet through EDIS. The timeframe targets for making investigative record materials available on EDIS are intended to ensure that both investigation participants and the public have quick access to information pertaining to section 337 proceedings. These targets relate directly to Operation 2’s strategic goal of conducting transparent investigations.

As noted in the Import Injury section (above), the Commission significantly improved processing rates in FY 2010, and hence raised the record availability targets for FY 2011 and FY 2012. As shown in figures 2.3 and 2.4, the availability targets for EDIS were again met in FY 2011, with 24-hour and 48-hour availability rates of 94.4 percent and 99.4 percent, respectively.



In FY 2011, the Commission finalized new rules that require most documents in section 337 proceedings to be filed electronically. To make this possible, EDIS was upgraded to allow both public and confidential documents to be submitted electronically by external filers. The new e-filing procedures are expected to cut costs for the agency and to improve the efficiency and effectiveness of the filing process as documents should enter into EDIS more quickly when e-filed. The new requirements took effect in November 2011.

In a further effort to enhance the information available to litigants and members of the public, a new measure for Performance Goal 2, relating to outreach efforts by Commission staff, was added for FY 2011 and 2012. This measure addresses efforts by staff to reach out to bar groups and others to educate them about the Commission's capabilities and the section 337 process. During FY 2011, the new outreach target was satisfied as representatives from a number of Commission offices, including Commissioners, OALJ, GC, OUII and SE, spoke to bar groups, law students, and foreign officials about section 337.

## Facilitating Exclusion Order Enforcement

Exclusion orders, which direct Customs to prohibit infringing goods from entering the United States, are generally viewed as a powerful form of remedy and an important feature of section 337. Actively facilitating the enforcement of exclusion orders is directly related to the Commission's mandate to provide "effective relief when relief is warranted" in section 337 proceedings, in accordance with its strategic goal for Operation 2. Performance Goal 3 is focused on facilitating the prompt enforcement of exclusion orders.

The first measure for Performance Goal 3 concerns the timely issuance of seizure and forfeiture orders after the receipt of notification letters from Customs. When there has been an attempt to import goods in violation of an exclusion order, Customs issues a notification letter of denial of entry to the importer. Because seizure and forfeiture orders must be issued by the Commission before Customs can seize and forfeit such goods, Customs transmits these entry denial notification letters to the Commission. Once the Commission receives a copy of the notification letter, it issues a seizure and forfeiture order to Customs directing it to seize any future importations by the same importer that violate the exclusion order. If seizure and forfeiture orders are not issued promptly, further importations in violation of the exclusion order may occur. Seizure and forfeiture orders are a valuable enforcement tool in that they frustrate "port shopping" efforts by infringers, who may seek to evade an exclusion order by taking their goods from port to port in hopes of passing the goods surreptitiously through Customs.

In FY 2009, the Commission substantially revised the previous goal relating to the issuance of seizure and forfeiture orders, which had been linked to the end of a waiting period during which importers could protest a denial of entry letter with Customs. The revised goal, which substantially shortened the period for issuance of seizure and forfeiture orders by the Commission to 60 days after the receipt of a notification letter from Customs, was not met in FY 2009. However, in FY 2010, the Commission met the target with respect to all but one of 11 orders issued that year. In FY 2011, the measure and target were again met, with all seizure and forfeiture orders issuing within 19 days or less after receipt of a notification letter. In view of this improvement, this measure has been further shortened for FY 2012 to 30 days after issuance.



Performance Goal 3: Actively facilitate enforcement of exclusion orders.					
FY 2011 measure a. Issue seizure and forfeiture orders within 60 days after receipt of notification letters from Customs.			FY 2012 measure <sup>a</sup> a. Issue seizure and forfeiture orders within 30 days after receipt of notification letters from Customs.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	100% timely issuance			
		Target not met	Target not met	Target met	
Indicator and data source: Order issuance reported by GC.					
FY 2011 measure b. Provide terms of proposed exclusion orders to Customs before submitting them to the Commission, and provide scheduling information regarding section 337 proceedings to Customs on a quarterly basis.			FY 2012 measure <sup>b</sup> b. Provide terms of proposed exclusion orders to Customs before submitting them to the Commission, and provide scheduling information regarding section 337 proceedings to Customs on a quarterly basis.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
Information provided in 100% of cases					
Target met	Target met	Target met	Target met	Target met	
Indicator and data source: Customs contacts reported by OUII.					
FY 2011 measure c. Formulate recommendations regarding enforcement in view of survey results and implement any such recommendations adopted by the Commission.			FY 2012 measure c. None		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	Conduct survey	Recommendations implemented	N/A
			Target met	Target met	
Indicator and data source: Recommendation implementation reported by OUII and GC.					

Note: The use of "N/A" (for "not applicable") indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

<sup>a</sup>Measure 3.a was modified for FY 2012 to shorten the deadline.

<sup>b</sup>The Commission may adjust this measure as it adjusts procedures in view of the new Operation 2 staffing model.

The second measure for Performance Goal 3 concerns the transmittal of scheduling information to Customs regarding pending section 337 matters, as well as the provision of information to Customs regarding exclusion orders. The intent of this measure is to improve communications with Customs by giving Customs an opportunity to comment on orders that may raise special enforcement concerns, as well as bolster enforcement by alerting Customs to upcoming orders so it can begin enforcing them as soon as possible. This measure was fully satisfied in FY 2011 as it has been in each year since FY 2007. In addition to transmitting information to Customs, attorneys from OGC and OUII meet with Customs personnel several times a year to promote coordination on enforcement-related issues.

The third measure for Performance Goal 3 relates to a survey conducted by the Commission in FY 2010 to help assess the effectiveness of section 337 exclusion orders and strengthen Commission procedures relating

to the issuance of exclusion orders. The FY 2010 survey was similar to those conducted in FY 2000 and 2005, and completed in accordance with the 2010 performance plan. In FY 2011, Commission personnel tabulated the results of the survey, made recommendations to the Commission, implemented these as appropriate, and shared the results with Customs personnel. The results of the survey were posted on the Commission’s website in early August 2011.<sup>10</sup> Thus, the goals associated with the exclusion order survey were met in both FY 2010 and 2011. The Commission expects to conduct another exclusion order survey in FY 2013.

## Developing Public Interest Information

Performance Goal 4 is a new goal that was added to the FY 2011 performance plan to speed the identification of potential public interest issues in section 337 investigations and the development of information regarding these issues, where appropriate. Like other goals in Operation 2, this goal supports the overall strategic goal that investigations be both “technically sound and transparent” and that effective relief be provided when warranted. The Commission added this performance goal in response to comments from one of its statutory customers.

<b>Performance Goal 4:</b> Formalize the process to facilitate the identification of potential public interest issues in the early stages of a section 337 investigation and provide the parties a clear opportunity to address such issues prior to the remedy phase of an investigation.					
FY 2011 measure a. Review comments on notice of rulemaking and determine what further action is appropriate.			FY 2012 measure a. Review comments on notice of rulemaking and determine what further action is appropriate.		
FY 2007 target N/A	FY 2008 target N/A	FY 2009 target N/A	FY 2010 target N/A	FY 2011 target Determination to issue rules made	FY 2012 target Conclude rulemaking process
				Target met	
Indicator and data source: Determination reported by GC.					

*Note:* The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

The measure for this goal was satisfied in FY 2011. Specifically, on October 1, 2010, the Commission issued a notice of proposed rulemaking, in which it requested comments on several proposed rules that would provide for the filing of comments concerning the public interest, by the parties and by the public, at several stages of the investigation. The comment period closed in January 2011, and thereafter the Commission began consideration of final rules regarding public interest comment procedures. This rule-making effort culminated with the publication of public interest rules on October 19, 2011.<sup>11</sup>

<sup>10</sup> Links to a summary of the survey results and related materials appear on the IP infringement page of the Commission website found at [http://usitc.gov/intellectual\\_property/](http://usitc.gov/intellectual_property/).

<sup>11</sup> 76 Fed. Reg. 64803. [http://usitc.gov/secretary/fed\\_reg\\_notices/rules/finalrules210.pdf](http://usitc.gov/secretary/fed_reg_notices/rules/finalrules210.pdf).

# Operation 3: Industry and Economic Analysis

## Overview

The Commission’s strategic goal for Operation 3 is to:

Enhance the quality and timeliness of its industry and economic analysis to support sound and informed trade policy formulation.

The Commission’s industry and economic analysis aims to provide policymakers in the legislative and executive branches with a sound foundation as they consider policy decisions. As a recognized leader in international trade and industry competitiveness analysis, the Commission provides its external customers with high-quality, independent, and objective analysis that is both timely and relevant to U.S. trade policy. In FY 2011, the Commission delivered 19 statutory reports to its customers, including studies that provided unique insights on trade-related issues. Figures 3.1 and 3.2 show investigation trends for this operation.<sup>12</sup>

Investigations conducted under Operation 3 generally fall into three broad categories:

- general factfinding and analytical investigations, which include non-recurring and recurring investigations conducted pursuant to section 332 of the Tariff Act of 1930;
- probable economic effect investigations, which include investigations required by section 131 of the Trade Act of 1974, and by consultation and layover requirements of various acts implementing trade agreements; and
- assessments of negotiated trade agreements, which include investigations regarding the effects of negotiated FTAs, pursuant to section 2104 of the Trade Act of 2002.<sup>13</sup>

The investigations often involve a number of elements including (1) public hearings, (2) written or telephone surveys of U.S. producers, importers, and consumers, (3) domestic and foreign fieldwork, (4) interviews with industry, government, and academic experts, (5) extensive literature reviews, (6) data compilation, and (7) developing and applying new and insightful analytical techniques, all of which are aimed at providing independent and objective facts and useful insights to agency customers.

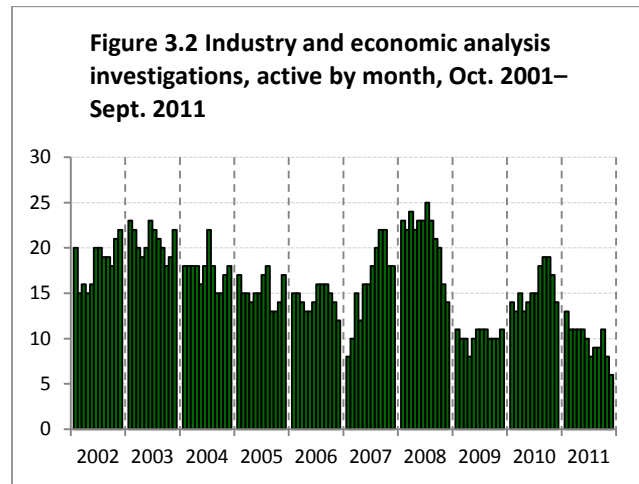
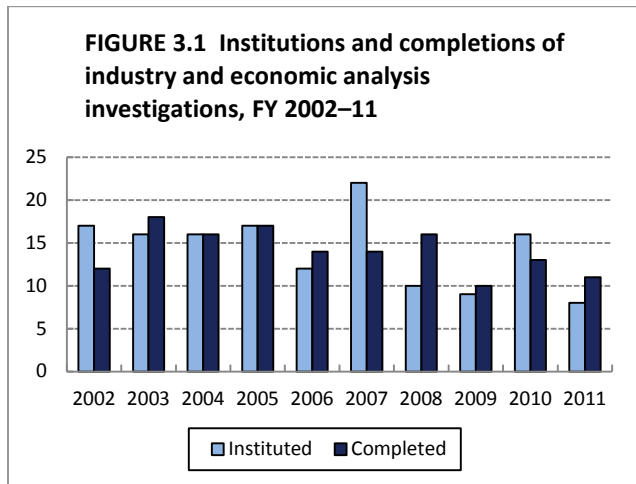
The Commission completed studies on a wide range of new and complex topics. These works provided unique information and analysis that helped fill significant information gaps for policymakers. Examples include studies on the impact of Chinese intellectual property rights infringement and indigenous innovation policies on the U.S. economy and U.S. producers; characteristics and performance of U.S. small and medium-sized enterprises; the effects of China’s agricultural production and trade on U.S. exports; and the economic effect of significant U.S. import restraints. This last study included new research on global supply chains—an area in which the Commission is viewed as a leading global source of expertise. These complex and comprehensive studies required significant staff and data resources, as the Commission’s investigations

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<sup>12</sup> During the period shown in figure 3.2, the agency incrementally improved its method of counting “active” investigations to more accurately depict when resources were being expended. Prior to FY 2005, certain (recurring) investigations were counted as “active” during months when they were pending.

<sup>13</sup> Although the authority under section 2104(f) of the Trade Act of 2002 has expired, if trade promotion authority (TPA) is renewed, the Commission anticipates it would continue to provide analysis of any negotiated trade agreements.

touched on areas in which relatively little, or no, prior information was available. Appendix B lists the publicly available reports that were published during FY 2011.



During recent years the Commission has developed and used several new or enhanced management-related databases to help improve research efficiency and better manage agency resources. Having better information on workload data has allowed senior managers to address cross-operational requirements more effectively. One example is a new database on the technical assistance USITC staff provides to the Commission’s statutory customers. This detailed database enabled the Commission to better understand how many resources were devoted to serving various customers, the frequency with which its customers asked for assistance, and the amount of time and resources required to provide the assistance. This database has proven useful in illustrating the intricate relationship between staff-provided technical assistance and requests for formal Commission investigations. With this new database the Commission can also examine trends in the kinds of technical assistance questions that are being asked, potentially providing insight into customers’ changing priorities over time. This, in turn, shapes agency decisions about research priorities and resource allocations. The data also help the Commission to better understand the number of requests coming from each customer.

In addition the Commission has been using its investigations database for this operation to gain insights on a number of issues. For example, although a majority of the Commission’s industry and economic analysis investigations are requested by USTR, a substantial share of those requests is based on statutes that require USTR to ask the Commission for particular reports, although the share varies from year to year. Furthermore, the Commission used this database to analyze the recent decreasing trends in active cases. Insights include the following:

1. FY 2011 was the first year in five years that the Commission did not receive a multi-investigation request. In FY 2010, the Commission received three such investigations, resulting in seven distinct investigations;
2. active investigations required directly by statute dropped from nine in FY 2008 to five in FY 2010 and 2011; and
3. over the past several years, about two to three Generalized System of Preferences (GSP) investigations were active in most fiscal years, including FY 2011.

Overall, recurring reports fell from 12 in FY 2009 to nine in FY 2010 and 2011. The Commission conducted one non-recurring probable economic effect study in FY 2011, versus four and five in FY 2010 and 2011, respectively, reflecting the decreased activity in bilateral or multilateral trade agreement negotiations in recent years.

In FY 2010 the Commission revised some of its measures and revised some of the targets for FY 2011. For example, the Commission added two additional targets relating to the expansion of its economic modeling and analytical capabilities. These initiatives were the outgrowth of feedback the Commission received from customers in 2010. The first target was to develop supply chain and firm level data that could further the agency's understanding of global trade patterns. The second target involved conducting regional analysis for India and Brazil, with an initial focus on agriculture. This target built on recent congressionally requested section 332 investigations. Given the changing global events over the past few years, both areas of investigation were well poised to be particularly relevant to policymakers. Comparing Operation 3 targets for this measure over the past five years, it is plain that some targets have shifted from certain topics to others. Earlier targets involved developing new research techniques to assess nontariff measures (NTMs), free trade agreements, international competitiveness, and changes in productivity stemming from new manufacturing processes. The operation's latest initiatives are best illustrated by the Commission's global supply chain research, its in-depth applications of NTM estimation methods to new sectors and countries, and its development of knowledge on green technologies and services

The Commission met or generally made progress on the performance goals it set for Operation 3, meeting or exceeding 9 of the 12 annual targets it set. These are described below.

## Improving Research Methods

The Commission's performance goal to develop and improve efficient and effective research methods is intended to help ensure that these methods can supply high quality and timely analysis to help support trade policy formulation. The goal's measures and targets are designed to quantify external and internal customer satisfaction with completed studies and to measure the Commission's timeliness in delivering reports in customer-requested investigations.

The Commission largely met this performance goal by reaching two of its three targets. All section 332 reports were delivered to requestors on time, suggesting that agency research methods are efficient and effective in delivering its customer-requested products. The agency also successfully developed a baseline survey instrument to collect formally internal customer (Commissioner) assessments of report quality and the extent to which reports fully addressed customers' requests. As with Operation 1, this internal feedback is being collected via electronic questionnaires. The target the agency did not meet, a 2 percent improvement



The USITC released *China: Effects of Intellectual Property Infringement and Indigenous Innovation Policies on the U.S. Economy*, a groundbreaking report on intellectual property infringement in China, during FY 2011. Here, Senior Trade Analyst for Intellectual Property Rights, Katherine Linton, discusses the report's findings at an event hosted by the Association of Women in International Trade, a Washington-area professional association.

over the previous year’s share of reports characterized by customers as informative, was driven by a combination of a low overall response rate (an unusually high number of requests for feedback from customers on specific reports generated no response, compared to previous years) and one customer reporting one study as not informative.

Performance Goal 1: Develop and improve efficient and effective research methods. <sup>a</sup>					
FY 2011 measure a. Feedback from executive branch and congressional staff categorizes delivered statutory reports as informative.			FY 2012 measure a. Feedback from executive branch and congressional staff categorizes delivered statutory reports as informative.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
2% improvement over previous year.	Create baseline from interviewing clients.	2% improvement over previous year			
Target met	Target met	Target not met	Target met	Target not met	
Indicator and data source: Feedback provided by customers, reported by ER through EC.					
FY 2011 measure b. Deliver all section 332 reports to requesters on time.			FY 2012 measure b. Deliver all section 332 reports to requesters on time.		
FY 2007 target	FY 2008 target	FY 2009 result	FY 2010 target	FY 2011 target	FY 2012 target
100% timely					
Target met	Target met	Target met	Target met	Target met	
Indicator and data source: Reports delivered, as reported by EC and ER.					
FY 2011 Measure c. Develop a baseline for Commissioners' feedback, especially on report quality and fully addressing Commission customers' requests.			FY 2012 Measure c. Based on Commissioners' feedback, especially on report quality and fully addressing Commission customers' requests, take action in areas needing improvement.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Baseline developed	Action taken
				Target met	
Indicator and data source: Baseline established in 2011 and actions taken in 2012, as reported by EC.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

<sup>a</sup>This goal was modified to the following for FY 2012: “Develop and improve efficient and effective research methods and deliver products that meet customer requirements.”

## Expanding Research Capabilities

Performance goal 2, expanding the Commission’s capacity to anticipate and address new industry and economic issues and areas as they emerge or to deepen and refine analytical tools and skills, helps ensure that Commission resources are well positioned to provide quality and timely analysis on challenging international

trade and competitiveness issues that may affect the United States. The Commission’s annual measures and targets aim to quantify the progress toward this goal by measuring the number of non-customer-requested staff research products. It does so in order to ensure that it regularly develops new and efficient capacities that respond to, or strategically anticipate, customer needs, and that the agency continues to expand its fundamental economic modeling and analytical capabilities.

<b>Performance Goal 2: Expand the Commission’s capacity to anticipate and address new industry and economic analysis issues and areas as they emerge. <sup>a</sup></b>					
FY 2011 Measure a. Produce more than 60 staff-initiated articles, working papers, research notes, Executive Briefings on Trade, and presentations at professional meetings/conferences, as resources and mandatory work permit.			FY 2012 Annual Measure a. Produce staff-initiated articles, working papers, research notes, Executive Briefings on Trade, and presentations at professional meetings/conferences, as resources and mandatory work permit.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
60 issuances					
Target met	Target met	Target met	Target met	Target met	
Indicator and data source: Documents produced reported by EC.					
FY 2011 Measure b. Continue to enhance the Commission’s capacity to efficiently respond to, and anticipate, new areas of analysis or data needs for internal and external customers. <sup>b</sup>			FY 2012 Measure b. Continue to enhance the Commission’s capacity to efficiently respond to, and anticipate new areas of analysis or data needs for internal and external customers.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Develop baseline documentation and internal Commission process for Commission collaboration and review of research focus areas	(i) Assess process/results for proactive identification of research areas, considering feedback from Commissioners and external customers  (ii) Illustrate/assess research efforts to efficiently respond, with feedback from Commissioners and external customers
				Target met	
Indicator and data source: Approved documentation and initiation of internal process (2011) and assessment of process and results (2012), as reported by EC.					

Performance Goal 2: Expand the Commission’s capacity to anticipate and address new industry and economic analysis issues and areas as they emerge. <sup>a</sup> —Continued					
FY 2011 Measure			FY 2012 Measure		
c. Expand economic modeling and analytical capabilities.			c. Expand economic modeling and analytical capabilities.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
Multiple specific targets established each year to expand analytical capabilities.			(a) increase integration of tools and databases related to NTMs and foreign direct investment (FDI) into statutory work; (b) extend USAGE model to the 2002 input-output (I-O) table; (c) develop new sources of supply chain and firm-level data to further understand global trade patterns; (d) continue research initiatives on India and Brazil, with a focus on agricultural trade; (e) continue model validation process to monitor Commission general equilibrium model performance; and (f) examine the Vietnamese service sector.		
			(a) finalize FDI database and model; (b) increase development of NTM tools and information, including trade facilitation into statutory work; (c) update the USAGE model for labor occupation breakouts using most recent North American Industry Classification System (NAICS)-based statistics; (d) develop new supply chain and firm level data and information to further understand global trade patterns and effects on international competitiveness; (e) continue research initiatives on India and Brazil, especially manufacturing and services sectors; (f) enhance analytical capabilities with respect to linkages of trade and FDI to labor; (g) develop research initiatives focused on links between competitiveness and regulation; and (h) develop knowledge and tools related to green technologies and services.		
Targets a-e met	Targets a-e met  Target f not met <sup>c</sup>	Targets a-c met  Target d not met <sup>d</sup>	Targets a-b met  Target c-d not met <sup>e</sup>	Target a met  Target b not met  Targets c-e met  Target f not met	
Indicator and data source: Initiatives implemented as reported by EC.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

<sup>a</sup>This goal was clarified for FY 2012 to: “Expand the Commission’s capacity to anticipate and address new issues and areas for industry and economic analysis.”

<sup>b</sup>The original measure for FY 2011 was “Continue to enhance staff capacity to efficiently respond to two or more new areas of analysis or data needs as requested by customers.”

<sup>c</sup>The goal included completing updates to the USAGE model from Standard Industrial Classification (SIC)-to NAICS-based structure.

<sup>d</sup>This goal was for the completion of the USAGE investment add-on module.

<sup>e</sup>These goals included (<sup>c</sup>) extending USAGE dynamic database to latest I-O table and transforming it to NAICS; and (<sup>d</sup>) updating the USAGE state-level and occupational add-on modules.



The Commission met or exceeded targets associated with two of the three measures set for this performance goal. USITC staff produced more than 100 staff-initiated articles, working papers, research notes, Executive Briefings on Trade, and presentations at professional meetings and conferences, far surpassing the target of 60 set for FY 2011. The agency also developed baseline documentation for Commission collaboration on and review of research focus areas. This baseline, combined with information derived from analysis of demand for various types of Commission products, allows the agency to improve its resource utilization and planning.

The Commission did not fully meet all of the targets associated with its third measure, accomplishing four of the six modeling and analytical initiatives it identified for FY 2011. (Some of these projects were extended from FY 2010.) The agency increased its integration of tools and databases related to two topics—nontariff measures (NTMs) applied to both goods and services and foreign direct investment (FDI) into customer-requested work. Agency staff also continued research on India and Brazil, focusing on agricultural trade. This work is being used in an investigation on the Brazilian agricultural sector that the Commission is currently conducting at the request of the Senate Finance Committee under section 332 of the Tariff Act of 1930. In addition, the agency made good progress on its efforts to validate its models. USITC staff continued to expand its global value-added database to incorporate the value each country contributed to trade, more specific information on U.S. sectors, and the 2007 version 8 of the Global Trade Analysis Project (GTAP) database. Agency efforts in this area involve the use of detailed data from other countries, which requires working with other experts to fully understand and properly integrate the information. During FY 2011, staff presented “Estimating Foreign Value-added in Mexico’s Manufacturing,” a USITC staff working paper, at the National Institute of Statistics and Geography (INEGI) conference in Mexico City, Mexico. Participating in this conference strengthened cooperation between the Commission, INEGI, and other Mexican institutions promoting collaboration in U.S.-Mexico trade research and facilitating access to and exchange of data to develop new sources of supply chain and firm-level data related to U.S. and Mexican trade.

Out of the six components of target 3.2 (c), an important one that was not met was extending the U.S. Applied General Equilibrium (USAGE) model to the 2002 input-output (I-O) database. This project was affected by the fact that in FY 2011, the Commission operated under continuing resolutions during the year. Because the Commission has limited in-house resources with the specific knowledge to complete the task, the Commission’s uncertainty about its final appropriation meant that research funds that could have been used to bring in outside contractors were not accessible until late in the fiscal year. As a result, the Commission was required to delay efforts to hire the needed knowledgeable outside contractors. The Commission is now able to engage the requisite outside skills in a timely manner to work with in-house staff, and it expects to make significant progress on the project. The agency also did not make the progress it expected on research focusing on the Vietnamese service sector. Resources originally intended to be used on the Vietnamese service sector work were redirected to higher priority, broader impact research.

## Improving Transparency and Access to Information

The Commission’s third performance goal for Operation 3 is to improve the Commission’s communications with its customers to ensure that they understand the agency’s capabilities and are able to benefit from its expertise. By providing industry and economic analysis through the USITC’s website, the agency not only increases access to information for its primary customers, but also to the trade community, other

governmental agencies, and the general public. The Commission measures progress toward improved communications mainly through a standardized measure of satisfaction with its webpages dedicated to industry and economic analysis.

<b>Performance Goal 3: Improve the Commission’s communications with its customers to ensure that they understand the agency’s capabilities and are able to benefit from its expertise.</b>					
FY 2011 Measure a. Achieve improvement over FY 2010 level of satisfaction reported by users of Commission Industry and Economic Analysis webpages.			FY 2012 Measure a. Achieve improvement over FY 2011 level of satisfaction reported by users of Commission Industry and Economic Analysis webpages.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
2% improvement	1 point improvement	2 point improvement		1 point improvement	
Target not met	Target not met	Target met	Target met	Target met	
Indicator and data source: Satisfaction level reported by ITS and EC.					

The Commission met this goal in FY 2011. Overall satisfaction with the Commission’s Industry and Economic Analysis webpages increased from 63 to 69. However, as with the overall website, user satisfaction lagged average satisfaction rates. The agency expects to monitor closely user feedback in response to the revisions discussed in the section on Import Injury Investigations (above).

# Operation 4: Tariff and Trade Information Services

## Overview

The Commission’s strategic goal for Operation 4 is to:

Improve the availability of and access to high-quality and up-to-date tariff and international trade information and technical expertise to support the executive and legislative branches, the broader trade community, and the public.

Operation 4 includes a variety of functions, related to maintaining and publishing the Harmonized Tariff Schedule of the United States (HTS).<sup>14</sup> These functions include the following:

- providing Congress with factual reports (covering trade data, Customs’ revenue loss estimates, and suggested changes in nomenclature) on permanent and temporary legislation affecting the HTS;
- participating in the U.S. delegation to the World Customs Organization (WCO) in Brussels, and reflecting changes to the international Harmonized System (maintained by the WCO) in the HTS;<sup>15</sup>
- chairing the interagency Committee for Statistical Annotation of the Tariff Schedules (“484(f) Committee”);<sup>16</sup> and
- providing technical assistance to the public and online services to aid the public’s interpretation and use of the HTS.

The importance of maintaining and providing an accurate and up-to-date tariff schedule cannot be overemphasized, as it is the linchpin of Customs’ classification of goods for the purpose of assessing duties; for other government agencies’ flagging of imports in order to enforce regulations; for importers’ filing of import entry documents; and for the U.S. Census Bureau’s compilation of monthly and annual trade statistics.

In addition, the Commission provides online trade services, such as the USITC DataWeb, a valuable tool used both by Commission staff and by external customers to organize U.S. import and export data for analysis, and the HTS tariff data base, which reflects not only normal (“column 1-general tariff rates”), but also various preferential rates—applicable under FTAs, the GSP, and other preferential duty programs.

Much of Operation 4’s workload varies with the level of legislative activity in the Congress and trade agreements activity by USTR. During FY 2011, there was little or no legislative activity affecting the HTS. However, pending trade agreements with Korea, Panama, and Colombia engendered almost continuous technical assistance to USTR, which was preparing implementing proclamations for those agreements. Further, though the GSP expired at the end of the first quarter of FY 2011, the Commission nevertheless was asked to provide technical assistance to USTR in anticipation of the reactivation of that program.

<sup>14</sup> Pursuant to the Omnibus Trade and Competitiveness Act of 1988, section 1207 (19 U.S.C. 3007).

<sup>15</sup> *Ibid.*, sections 1205 and 1206 (19 U.S.C. 3005-3006).

<sup>16</sup> Pursuant to section 484(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1484).

In recent years the Commission has assessed existing performance goals and annual measures for Operation 4 and has made significant adjustments. Certain measures were dropped as their usefulness had lessened. Overall, the adjustment of these goals and measures has supplied the agency with performance data that encourage more focus by staff on what needs to be accomplished, and how additional workforce efficiencies might be found.

Overall, the Commission met or exceeded 8 of the 10 annual targets set for this Operation. Of the 2 goals that were not met, 1 was partially met and the other pertained to an area in which there was no activity during the fiscal year. Each of the performance goals for Operation 4 and the Commission's experience in meeting those goals is discussed below.

## Improving Transparency and Access to Information

Improving the utility of and access to tariff and trade information is an important goal for the Commission, as access to this information is critical for other government agencies and the trade community. As demonstrated by the information for Performance Goal 1, summarized below, the Commission has a good track record over the years of disseminating tariff and trade information in an accurate and timely way. However, it has only been in recent years that some aspects of this performance have been formally measured and tracked. Other measures tracked in previous years were dropped when they became less useful performance indicators.

<b>Performance Goal No. 1: Increase the utility and improve the dissemination of tariff and trade information services to customers.</b>					
FY 2011 Measure a. Establish baseline for usage of the HTS online search tool.			FY 2012 Measure a. Achieve increase over FY 2011 in usage of the HTS online search tool.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Establish baseline	5% increase.
				Target met	
Indicator and data source: Usage rate reported by ITS.					
FY 2011 Measure b. Improve over FY 2010 level of positive feedback from users of Commission tariff and trade webpages.			FY 2012 Measure b. Improve over FY 2011 level of positive feedback from users of Commission tariff and trade webpages.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
2% improvement over FY 2006	1-point improvement over FY 2007	2-point improvement over FY 2008	2-point improvement over FY 2009	1-point improvement	
Target not met	Target not met	Target not met	Target met	Target met	
Indicator and data source: Feedback reported by ITS.					
FY 2011 Measure c. Improve success rate of users' keyword searches on the HTS Online Reference Tool.			FY 2011 Measure c. Improve success rate of users' keyword searches on HTS Online Reference Tool.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	70% of searches successful	70% of searches successful
				Target met	
Indicator and data source: Search success reported by CIO.					
FY 2011 Measure d. Achieve minimal difference between Customs' HTS database and the Commission's online versions of HTS.			FY 2012 Measure d. Achieve minimal difference between Customs' HTS database and the Commission's online versions of HTS.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Less than 1% difference	
				Target met	
Indicator and data source: Database differences reported by TATA.					

Performance Goal No. 1: Increase the utility and improve the dissemination of tariff and trade information services to customers.—Continued					
FY 2011 Measure e. Updated versions of the HTS posted to website within 2 working days of effective date.			FY 2012 Measure e. Updated versions of the HTS posted to website within 2 working days of effective date. <sup>a</sup>		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Posting in 2 working days	
				Target met	
Indicator and data source: Posting within deadline, as reported by TATA.					
FY 2011 Measure f. Requests to the 484(f) Committee acknowledged within 5 working days of receipt; petitioners notified electronically of Committee decisions within 5 working days and in writing within 5 days after implementation of statistical modifications of the HTS.			FY 2012 Measure f. Promptly process requests to the 484(f) Committee and notify requesters of receipt and actions taken. <sup>a</sup>		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Actions taken	a. Acknowledge request within 5 working days of receipt b. Notify petitioners electronically of Committee decisions within 5 working days c. Notify petitioners in writing within 5 working days after implementation of statistical modifications of the HTS.
				Target partially met	
Indicator and data source: Actions taken within deadlines, as reported by TATA.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

<sup>a</sup>These measures and targets were moved to Performance Goal 2 for FY 2012 and FY 2013 because they more closely relate to that goal.

Of the six measures outlined in the table above, the first was to establish a baseline on which to track future increased interest in and use of the Commission’s relatively new online tool for searching tariff information. The third measure was established to show improvements in the success of users of that search tool in finding what they are looking for. As for the second measure, the HTS- and trade information-related pages have consistently led the Commission’s ratings on the Foresee survey comparisons of the USITC website with other government and nongovernment websites. The other three measures were aimed at improving accuracy and timeliness of the tariff information being given to the Commission’s customers and all were either met or partially met in FY 2011. The last target is characterized as “partially” met, because formalized controls were not in place to provide specific measures as to whether the Commission had been meeting its target; however, by the second half of FY 2011, such controls were in place, and all specified deadlines were shown to be met.

## Improving Nomenclature and Related Services

Performance goal 2 is to provide timely, effective, and responsive nomenclature and related technical services to the public. The Commission strives to provide accurate, accessible, and timely information on its website and to issue updated information in real time. However, the agency recognizes that this information is complex and that many users may need assistance in understanding it as well as advice about its correct use. Thus, the Commission has developed a number of measures to track its performance in this area. Moreover, as with other operations, the Commission places particular importance on providing timely information to its statutory customers.

<b>Performance Goal No. 2: Provide timely, effective, and responsive nomenclature and related technical services to customers.</b>					
FY 2011 Measure a. Feedback on Commission responses to email requests concerning HTS is positive at least 95% of the time.			FY 2012 Measure a. Positive feedback on Commission responses to email requests concerning HTS.		
FY 2007 target <sup>a</sup> N/A	FY 2008 target <sup>a</sup> N/A	FY 2009 target <sup>a</sup> N/A	FY 2010 target <sup>a</sup> N/A	FY 2011 target 95% positive results	FY 2012 target
				Target met	
Indicator and data source: Results reported by TATA.					
FY 2011 Measure b. Develop system to measure response time for emails received through the HTS on-line help system.			FY 2012 Measure b. 80% of emails received through the HTS on-line help system are responded to within 7 working days.		
FY 2007 target N/A	FY 2008 target N/A	FY 2009 target N/A	FY 2010 target N/A	FY 2011 target System developed	FY 2012 target 80% response within deadline
				Target met	
Indicator and data source: System developed in FY 2011, and response by deadline in FY 2012, as reported by TATA.					
FY 2011 Measure c. From the date when a batch of miscellaneous tariff bills is assigned, 80% of reports are transmitted to the Congress within 65 working days.			FY 2012 Measure c. From the date when a batch of miscellaneous tariff bills is assigned, 80% of reports are transmitted to the Congress within 65 working days.		
FY 2007 target N/A	FY 2008 target N/A	FY 2009 target N/A	FY 2010 target N/A	FY 2011 target 80% of reports transmitted within deadline	FY 2012 target 80% of reports transmitted within deadline
				N/A	
Indicator and data source: Actions completed within deadlines, as reported by TATA.					

<b>Performance Goal No. 2: Provide timely, effective, and responsive nomenclature and related technical services to customers.—Continued</b>					
FY 2011 Measure			FY 2012 Measure		
d. Facilitate interagency decision making.			d. Facilitate interagency decision making.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	484(f) Committee meeting agenda is prepared at least 3 weeks before a scheduled meeting, and minutes are finalized before the effective date of changes	
				Target met	
Indicator and data source: Agenda and minutes prepared, as reported by TATA.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

<sup>3</sup>The Commission set similar targets for this measure in FY 2007–10; however, the measure did not cover the range of emails covered by the current measure, as the agency was not able to determine systematically whether it had met its targets.

For Performance Goal 2, summarized in the table above, four measures are used to track the quality and timeliness of the tariff nomenclature expertise that the Commission offers its stakeholders. The first two measures pertain to Commission responses to on-line inquiries from the public through the USITC website’s “HTS help” function; in FY 2011, the number of such responses was about 2,500. While the Commission does not solicit or get feedback from customers on each and every response provided, the unsolicited feedback received has been uniformly positive. In FY 2011 the goal was to develop an objective way to measure and document that feedback; efforts to develop a fully automated process for this were not successful, but a semi-automated procedure, requiring some manual handling of electronic data, was developed and this target was met. For FY 2012 the targeted deadline measure can now be formally tracked and documented.

The third performance measure for this Performance Goal pertains to Commission-approved, factual reports on miscellaneous tariff bills (MTBs) introduced in the Congress; such reports have been provided to the Congress at its request for several decades. The deadlines developed for performance reporting are aimed more at internal efficiency than at external requirements, as Congressional activity and timetables tend to vary from one session to the next in this area. In fact, in FY 2011 the Congress did not consider any miscellaneous tariff legislation (hence the “N/A”). At this time, it is unclear whether Congress will address MTBs in FY 2012.

The final measure tracks the Commission’s participation in the interagency 484(f) Committee, which is charged with considering modifications to the HTS for statistical purposes only. The Commission chairs this committee and acts as its secretariat. The new measure and targets are a reflection of the Commission’s longstanding practices, but the targets formalize internal controls performance reporting and management purposes.



# Operation 5: Trade Policy Support

## Overview

The Commission's strategic goal for this operation is to:

Provide enhanced support to the development of well-informed U.S. international trade policy by quickly responding to executive and legislative branch policymakers' needs for technical support, data, and analysis.

The Commission provides trade policymakers with technical expertise, accurate data and other information, and objective analysis on international trade and competitiveness issues in order to support the development of well-informed U.S. international trade policy. The support provided in this Operation is entirely driven by customer requests. A significant increase in such requests in FY 2011 indicates that customers value the information provided through this operation. For FY 2012 and 2013, the Commission has set performance goals to enhance the scope of such support, and ensure both timely responses and customer satisfaction with delivered products.

The Commission's ability to respond quickly to requests for trade policy support from both the legislative and executive branches both complements and draws upon work in all other strategic operations, most notably Operation 3 (Industry and Economic Analysis), and is primarily performed pursuant to 19 U.S.C. § 1332. This support encompasses information and analysis on current issues related to trade and competitiveness, technical advice on draft legislation, informal briefings and meetings, temporary reassignments (details) of personnel to other government units, support of litigation activities before World Trade Organization (WTO) bodies, and assistance to trade delegations and negotiating teams. To implement legislation on trade policy decisions that modify the HTS, the Commission also drafts Presidential proclamations, memoranda, executive orders, and final decisions by various agencies.

The Commission continually engages in efforts to improve its service to trade policymakers. Over the past several years, as a result of these efforts, the number of requests for technical assistance has trended upward. The level of work required to respond to these requests ranges widely, as do the topics covered. The variety of these requests reflects the complexities of developing policy related to trade, as well as policymakers' confidence in the Commission's breadth of knowledge. This activity keeps the Commission abreast of the issues currently engaging policymakers and often presages more formal requests for investigations, allowing the Commission to develop proactively the capacity to better meet those requests. In FY 2011, the Commission provided expertise on 149 distinct trade policy issues, significantly above the average of the previous five years (108).

As discussed in the section on Operation 3, the Commission converted data covering over a decade (2000-11) from paper records to an electronic format to facilitate analysis of requests over that time. This initiative was undertaken to improve the agency's understanding of the nature, distribution, and scope of trade policy support requests during the period, as well as developing trends. This effort was undertaken in tandem with an analysis of requests for investigations completed in Operation 3. The results of these concurrent efforts highlighted instances in which the Commission provided initial information to policymakers through Operation 5 products and was later requested to engage in related and more in-depth Operation 3 investigations.

The Commission met or exceeded four of the six annual targets it established for this Operation in FY 2011. Of the two that were not met, the agency made progress on one. All these developments are discussed below.

## Improving the Timeliness and Effectiveness of Trade Policy Support

Providing enhanced real-time, efficient, and effective technical information and analysis to support the agency’s primary customers supports the Commission’s efforts to make progress toward its strategic goal. The Commission has established four annual measures for this goal. All focus on the scope, accuracy, timeliness, and utility of the Commission’s efforts.

<b>Performance Goal 1: Provide enhanced real-time, efficient, and effective technical information and analysis to support organizations involved in trade policy formulation.</b>					
FY 2011 Measure a. Support 89 tariff, industry, or trade issues by Commission analysis (~2 % increase from previous year).			FY 2012 Measure <sup>a</sup> a. Respond to 100 requests from the USTR and members of Congress and their staffs, for technical assistance and analysis on tariff, industry, or trade issues.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
70	80	85	87	89 issues supported	100 responses
Target met	Target met	Target met	Target met	Target met	
Indicator and data source: Number of issues supported (IND).					
FY 2011 Measure b. Establish capability for and procedures to enhance electronic delivery of classified products. <sup>a</sup>			FY 2012 Measure b. Establish capability for and procedures to enhance electronic delivery of classified products.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target <sup>a</sup>	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Capability and procedures established	Capability and procedures established
				Target not met	
Indicator and data source: 2011: Capability and procedures established, as reported by ER and ITS.					

<sup>a</sup>In FY 2010, the Commission set a similar, but not comparable measure and target, which the agency met.

<b>Performance Goal 1: Provide enhanced real-time, efficient, and effective technical information and analysis to support organizations involved in trade policy formulation.—Continued</b>					
FY 2011 Measure c. Revise internal guidelines to improve real-time tracking of requests.			FY 2012 Measure c. Revise internal guidelines and database design, if necessary, to improve real-time tracking of requests.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	Implement a tracking system	Better real-time tracking by coordinators	Guidelines revised and new database developed	Guidelines and database design revised
		Target met	Target not met	Target partially met	
Indicator and data source: 2011: Revision of guidelines and database design, as reported by ID.					
FY 2011 Measure d. Issue 100% of responses to Congressional letters on time.			FY 2012 Measure d. Issue 95% of responses to Congressional letters on time.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	100% timely	95% timely
				Target met	
Indicator and data source: Responses issued by deadline, as reported by ER and GC.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

<sup>a</sup>Measure modified in FY 2012 to improve the ability to track a quantifiable measure. The previous measure (issues) involved some ambiguity in its quantification.

<sup>b</sup>Measure modified in FY 2012 to reflect adoption of more formalized procedures for tracking and monitoring this activity.

Two of the four targets under Performance Goal 1 were met. The first annual goal for this Operation, providing substantive assistance on 89 trade policy issues, was exceeded during FY 2011, as it has been in recent years (table 5-1). However, the level by which the target was exceeded this year is unprecedented, reflecting increased interest in trade policy issues or better awareness of the Commission’s traditional and/or newly developed capabilities.

**TABLE 5.1 Number of trade policy issues supported, FY 2007–11**

Customer	2007	2008	2009	2010	2011
USTR	91	103	77	61	100
Congress	28	26	17	41	49
Total	119	129	94	102	149

Source: IND.

Technical assistance is provided primarily to aid the requestors’ decision-making when they are considering legislation or policy initiatives. Such information may result in requestors developing, supporting, opposing, or revising their stance on an issue. Because of this, unless the customers have publicly acknowledged the Commission’s role in their deliberations, the Commission must describe such work only in general terms.

In FY 2011, areas of concentration for the Commission's technical assistance included providing information related to the operation of free trade agreements and trade preference programs, providing support for teams involved in negotiation and dispute settlement activities, and providing assistance on miscellaneous tariff bill issues. A variety of activities were undertaken, including economic modeling, document review, data generation and assessment, technical comments on proposed legislation, and litigation assistance, and attendance at meetings. Information was provided on a variety of agricultural, service, and manufacturing industries and products, with considerable work done in the areas of environmental and electronic goods, textiles, and apparel. The Commission continues to post a limited number of staff on detail to its statutory customers, although the resources dedicated to this activity have varied for a number of reasons, including resource requirements in other Operations.

The other target met for Performance Goal 1 relates to the timely response to letters from individual members of Congress expressing their interest in, and providing information related to, ongoing investigations before the Commission. The Commission responds to such letters with information on the status of the cases of interest and advises the Members that the letters become part of the investigations' records and that any information provided will be considered by the Commissioners in their deliberations. The Commission met the target set for this measure.

Two of the four targets under Performance Goal 1 were not met. These targets involved (1) setting up the capacity for the Commission to deliver safely classified products electronically and (2) improving the internal tracking of, and recordkeeping for, requests for assistance. To meet the first goal, the Commission needed to obtain access to the Homeland Security Data Network (HSDN), which requires the approval of the Department of Homeland Security (DHS). The Commission requested this access in the first quarter of the fiscal year. While awaiting DHS's response, the Commission examined the requirements for in-house users and started planning the construction of a secure facility to house necessary equipment. However, approval from DHS was not acquired during the performance period. Despite budgetary reductions, the Commission plans to make the necessary investments to meet this goal in FY 2012.

Although significant progress was made toward meeting target 5.1.c (improving real-time tracking of requests), the software-based solution was still being tested and undergoing revision at the end of the fiscal year. This tracking tool will replace an existing approach that collects information regarding such support activities via contemporaneous filing of email traffic and quarterly reports of information by the responding units. Failure to meet the goal can be attributed to two primary obstacles. First, as work progressed on a design, the resolution of a variety of stakeholder interests proved more involved than expected. Second, the development team took on this task as a secondary duty, and other work priorities interfered with focusing on this task. Because this target involves improving internal tracking and recordkeeping, assignments more directly related to meeting the Commission's mission took precedence. Current plans are to broaden the test group during the second quarter of FY 2012 and engage all relevant employees by the end of the current fiscal year.

For FY 2012, the Commission has modified two measures. Measure 5.1.a has historically tracked the number of unique tariff, trade, or industry issues the Commission addressed in response to requests from USTR and Congressional customers. Such tracking involves some degree of subjective decision-making regarding the uniqueness of requests that deal with similar subjects. Starting in 2012, the Commission will directly measure the number of requests, a more objective measure. Measure 5.1.d was a new measure introduced in 2011. As measurement tracking began, it was determined that the timeliness standard was an informal one, and during the year internal stakeholders formalized the standard. Targets for this measure for

FY 2012 needed to be set as the formal standard was being put into place, so the target was reduced slightly to provide for any unforeseen effects of formalizing the process.

## Improving Communication with Statutory Customers

This performance goal is focused on ensuring that the Commission’s statutory customers are completely aware of the kinds of assistance they can seek, ensuring they are able to benefit fully from the Commission’s expertise, and collecting feedback on the usefulness of assistance that has been provided. Many employees at USTR, the Senate Finance Committee, and the House Ways and Means Committee have worked with, and occasionally for, the Commission; these professionals are well aware of the support the agency can provide. However, all organizations encounter turnover in staff, and new employees in these customer organizations may not be aware of the Commission’s ability to support their policymaking activities. In addition, the Commission continually strives to develop new capabilities, and even experienced customers may be unaware of enhancements from which they may be able to benefit. For Performance Goal 2, both targets were met.

<b>Performance Goal 2: Ensure that the Commission’s customers are fully informed of the agency’s capabilities and are able to benefit from its expertise.</b>					
FY 2011 Measure a. Focus outreach activities regarding Commission capabilities on new Congressional oversight committee staff.			FY 2012 Measure a. Focus outreach activities regarding Commission capabilities on new Congressional oversight committee staff.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	Contacts made	Contacts made	Contacts made
			Target met	Target met	
Indicator and data source: External contacts made, as reported by ID and ER.					
FY 2011 Measure b. Seek semiannual feedback from USTR’s designated Commission liaison regarding satisfaction with technical assistance products.			FY 2012 Measure b. Seek semiannual feedback from USTR’s designated Commission liaison regarding satisfaction with technical assistance products and implement enhancements based on feedback received.		
FY 2007 target	FY 2008 target	FY 2009 target	FY 2010 target	FY 2011 target	FY 2012 target
N/A	N/A	N/A	N/A	Feedback obtained	Feedback obtained to improve or revise methods as necessary
N/A	N/A	N/A	N/A	Target met	
Indicator and data source: Feedback in FY 2011, and feedback and enhancements in FY 2012, as reported by ID and ER.					

Note: The use of “N/A” (for “not applicable”) indicates that no results data are available, normally because a goal is new or no relevant actions occurred during the period.

Performance goal 5.2.a addresses the USITC’s support of policymakers in the legislative branch. The Congressional Relations Officer (CRO) in the Office of External Relations (ER) has met with both new and established staff on both congressional oversight committees to ensure a robust understanding of the Commission’s capabilities for supporting their decision-making and policymaking activities. During this performance period, the CRO documented several instances of reaching out to offer new staffers

information on the Commission's capabilities to provide assistance in addition to regular contact to congressional staff.

Performance Goal 5.2.b is aimed at collecting feedback from USTR staff on the usefulness of the information provided in response to technical assistance requests. The Commission received two responses from USTR during FY 2011, although both were early in the year. Additional feedback was solicited late in the year, which would have allowed the Commission to exceed its target, but a response was not received by the end of the performance period.

# **APPENDIX A**

## **U.S. International Trade Commission Staff Offices**

## Office of the Administrative Law Judges

The Commission's administrative law judges (ALJs) hold hearings and make initial determinations (IDs) in investigations under section 337 of the Tariff Act of 1930. If after receipt of a petition, the Commission decides to institute an investigation, the matter is referred to this office. The Chief ALJ assigns each case on a rotational basis to one of the Commission's six ALJs. After a discovery process, a formal evidentiary hearing is held in accordance with the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.). The ALJ considers the evidentiary record and the arguments of the parties and makes an ID, including findings of fact and conclusions of law. The ID becomes the Commission's determination unless the Commission determines to review and modify it or send the matter back to the ALJ for further consideration. Temporary relief may be granted in certain cases.

## Office of the General Counsel

The General Counsel (GC) serves as the Commission's chief legal advisor. The GC and the staff attorneys provide legal advice and support to the Commissioners and staff on investigations and research studies, 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 Operations

The Commission's core of investigative, industry, economic, nomenclature, and technical expertise is found within the Office of Operations (OP). The following six offices are under the supervision of the Director:

- The Office of Economics (EC) 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. EC also provides expert economic analysis for import injury investigations, as well as other industry and economic analysis products.
- The Office of Industries (IND) 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 studies and import injury investigations.
- The Office of Investigations (INV) conducts import injury 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 (NAFTA) Implementation Act of 1993, and the Uruguay Round Agreements Act (URAA) of 1994.
- The Office of Tariff Affairs and Trade Agreements (TATA) implements the Commission's responsibilities with respect to the HTS and the International Harmonized System.
- The Office of Unfair Import Investigations (OUII) participates in adjudicatory investigations, usually involving patent and trademark infringement, conducted under section 337 of the Tariff Act of 1930, both during the pre-institution phase and as a party with no commercial interest in the outcome of the litigation.
- The Office of Analysis and Research Services (OARS) provides research and investigative support. It comprises editorial, knowledge resources, statistical, and library services.



## Office of External Relations

The Office of External Relations (ER) develops and maintains liaison between the Commission and its diverse external customers and is the point of contact with 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 ER, assists small businesses seeking benefits or relief under U.S. trade laws.

## Office of the Chief Information Officer

The Office of the Chief Information Officer (OCIO) provides information technology leadership, a comprehensive services and applications support portfolio, and a sound technology infrastructure to the Commission and its customers. Through its staff and subsidiary offices, the OCIO seeks to promote, deliver, and manage the secure and efficient application of technology to the Commission's business activities. Component offices include Information Technology Services (ITS) and Enterprise Security Management.

## Office of Administrative Services

The Office of Administrative Services (OAS), formerly known as the Office of Administration, compiles the Commission's annual budget, prepares the agency's appropriation and authorization requests, and closely monitors budget execution. OAS also provides human resource services—including collective bargaining with union representatives—acquisitions, information and document management; management of work life issues; facilities management services, and is responsible for all Commission physical and personnel security matters. Component offices include Human Resources, Security and Support Services, Secretary, Finance, and Procurement.

## Office of Inspector General

The Office of Inspector General (OIG) provides audit, evaluation, inspection, and investigative support services covering all Commission programs and strategic operations. The mission of the OIG is to promote and preserve the effectiveness, efficiency, and integrity of the Commission. The OIG activities are planned and conducted based on requirements of laws and regulations, requests from management officials, and allegations received from Commission personnel and other sources.

## Office of Equal Employment Opportunity

The Office of Equal Employment Opportunity (OEEO) administers the Commission's affirmative action program. The Director advises the Chairman, the Commission, and USITC managers on all EEO issues; manages and coordinates all EEO activities in accordance with relevant EEO laws and EEO Commission regulations; evaluates the sufficiency of the agency's EEO programs and recommends improvements or corrections, including remedial and disciplinary action; encourages and promotes diversity outreach; and monitors recruitment activities to assure fairness in agency hiring practices.



**APPENDIX B**  
**Industry and Economic Analysis Reports**  
**Issued in FY 2011**

## FY 2011 Operations 3 Publications

Certain Environmental Goods: Probable Economic Effect of Duty-Free Treatment for U.S. Imports, USITC Investigation 332-516, October 2010

China: Intellectual Property Infringement, Indigenous Innovation Policies, and Frameworks for Measuring the Effects on the U.S. Economy, USITC Publication 4199 (amended), November 2010

Small and Medium-Sized Enterprises: Characteristics and Performance, USITC Publication 4189, November 2010

Selected Sectoral Effects of the U.S. FTAs with Chile, Singapore, and Australia, USITC Investigation 332-515, December 2010

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, USITC Investigation 332-288, December 2010

U.S.-Trans-Pacific Partnership Free Trade Agreement Including Malaysia: Advice On the Probable Economic Effect of Providing Duty-Free Treatment for Imports, USITC Investigation 131-035, January 2011

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2010 Review of Removals, USITC Publication 4215, February 2011

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2010 Review of Removals, USITC Publication 4215 (amended), February 2011

Certain Environmental Goods: U.S. International Trade and Competitive Conditions, USITC Investigation 332-517, February 2011

China's Agricultural Trade: Competitive Conditions and Effects on U.S. Exports, USITC Publication 4219, March 2011

U.S.-Korea Free Trade Agreement: Passenger Vehicle Sector Update, USITC Publication 4220, March 2011

Advice Concerning Modifications to the U.S. Generalized System of Preferences: 2010 Review of Competitive Need Limitation Waivers, USITC Publication 4228, April 2011

China: Effects of Intellectual Property Infringement and Indigenous Innovation Policies on the U.S. Economy, USITC Publication 4226, May 2011

Textile and Apparel Imports from China: Statistical Reports, Annual Compilation 2010, USITC Publication 4230, May 2011

Earned Import Allowance Program: Evaluation of the Effectiveness of the Program for Certain Apparel from the Dominican Republic, USITC Publication 4246, July 2011

Recent Trends in U.S. Services Trade, 2011 Annual Report, USITC Publication 4243, July 2011

The Year in Trade 2010: Operation of the Trade Agreements Program (62nd Report), USITC Publication 4247, July 2011

Shifts in U.S. Merchandise Trade 2010, USITC Publication 4245, August 2011

Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries, Twentieth Report 2009-10, USITC Publication 4271, September 2011



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