United States International Trade Commission

Performance and Accountability Report

Fiscal Year 2009

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Message from the Chairman

November 16, 2009

I am pleased to present the FY 2009 Performance and Accountability Report for the United States International Trade Commission. The report provides an overview of our fiscal year (FY) 2009 program and financial management accomplishments.

The Commission has three important mandates: (1) to administer U.S. trade remedy laws in a fair and objective manner; (2) to provide the President, the United States Trade Representative, and the Congress with independent analysis, information, and support on matters 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 strategies are reviewed annually and are designed to promote the mission of the agency.

I would like to highlight the following noteworthy accomplishments for the past year:

- Thirty-five import injury investigations were completed and 36 instituted during FY 2009. These investigations included original antidumping and countervailing duty investigations, five-year reviews, and one China safeguard investigation.
- Thirty-nine intellectual property-based import investigations were completed and 36 instituted during FY 2009. These complex investigations frequently involved products or processes related to telecommunications, pharmaceuticals, or microelectronic devices.
- Ten fact-finding and probable economic effects investigations were completed and nine instituted during FY 2009. These studies were conducted at the request of the United States Trade Representative or the Congress to assess the impact of proposed changes in trade policy and trade negotiations. 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.
- Historically high levels of customer usage were registered at the Commission's tariff database Web site and use of the Commission's HTS-related Web pages increased by almost 10 percent.
- The Commission continued efforts in FY 2009 to improve its ability to handle surges in investigative activity in import injury and intellectual property-based areas and better address the needs of the trade community. In particular, the Commission now has six ALJs on board, including a Chief ALJ. The agency secured additional courtroom space offsite on a temporary basis and signed a

lease for permanent space in the ITC's building that will include two additional courtrooms.

- The Commission also took important steps to improve the scope, quality, and accessibility of information services it provides to customers and the general public by launching:
    - a new version of its electronic docket information system, which surpassed established FY 2009 performance goals
    - an improved online version of the HTS, which provides direct access to the Department of Homeland Security's Customs Ruling Online Search System and other features valued by the trade community
    - a redesigned version of its Web site.

The Commission has an excellent track record of unqualified (clean) audit reports, including in each of the last five years. In FY 2009, however, the Commission encountered difficulty during its FY 2009 migration to a new financial system. This resulted in inconsistent and delayed reporting that interfered with the FY 2009 financial statement audit schedule. The burden of migration to a new system and the lack of resources available to adequately monitor internal controls prevented timely detection of correctible errors.

The FY 2009 independent financial audit, monitored by the Office of the Inspector General (IG), resulted in a disclaimer for the Commission's financial statements. The auditor was unable to obtain sufficient evidence to render an opinion on the financial statements in time for this report due to the above-mentioned difficulties. The auditor recommended, and the Commission will undertake to, improve internal controls and implement additional and more rigorous accounting procedures.

The Commission continues to make the integrity of financial information, as well as the systems and controls needed to produce the information, a high priority. The Commission is working diligently to correct the issues identified by the independent auditor and implement corrective measures. The Commission fully intends to return to good standing for FY 2010.

Shara L. Aranoff
Chairman

Management's Discussion and Analysis

Mission and Organization

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

Mission

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

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

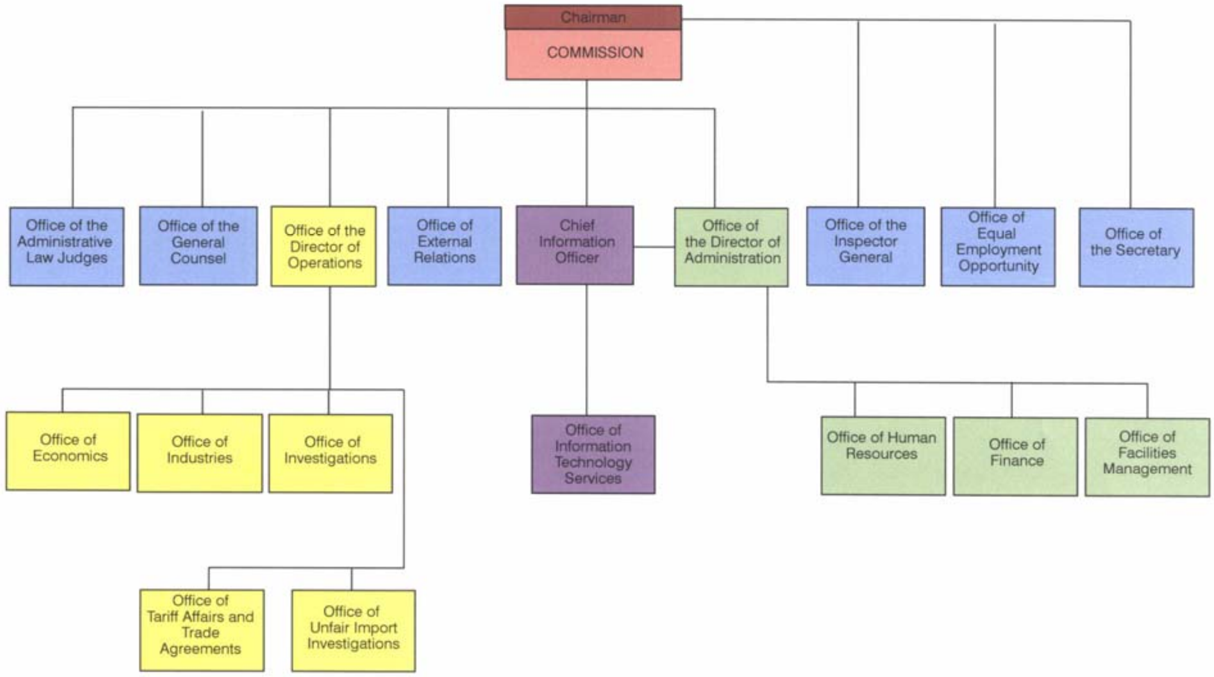
- Import injury investigations
- Intellectual property-based import investigations
- Industry and economic analysis
- Tariff and trade information services
- Trade policy support

Import injury investigations and intellectual property-based import investigations are distinct investigative regimes with specific and detailed procedures provided in authorizing legislation. Industry and economic analysis, tariff and trade information services, and trade policy support are based upon general authorizing legislation with broad procedural discretion delegated to the Commission. Each of these strategic Operations is discussed in greater detail in the Performance Section of this report.

Resources and Location

As of September 30, 2009, the Commission operated on a budget execution plan of $75.1 million and a permanent staff of 367 onboard. The Commission is located at 500 E St., SW, Washington, DC 20436.

Organization



Commissioners

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

Office of the Administrative Law Judges

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

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, prepare briefs, represent the Commission in court and before dispute resolution panels and administrative tribunals, and provide assistance and advice on general administrative matters, including personnel, labor relations, and contract issues.

Office of the Director of Operations

The Commission's core of investigative, industry, economic, nomenclature, and technical expertise is found within the Office of Operations (OP). 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. The Office of Economics also provides expert economic analysis for title VII, safeguard, and market disruption investigations, as well as other industry and economic analysis products;
- The Office of 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 and title VII, safeguard, and market disruption investigations;
- The Office of Investigations (INV) conducts countervailing duty, antidumping duty, review, and safeguards investigations to fulfill the Commission's investigative mandates, including those specified in the Tariff Act of 1930, the Trade Act of 1974, the North American Free Trade Agreement (NAFTA) Implementation Act of 1994, and the Uruguay Round Agreements Act (URAA) of 1994;
- The Office of Tariff Affairs and Trade Agreements (TATA) carries out the Commission's responsibilities with respect to the HTS and the International Harmonized System; and
- The Office of Unfair Import Investigations (OUII) participates as a full party representing the public interest in adjudicatory investigations, usually involving patent and trademark infringement, conducted under section 337 of the Tariff Act of 1930.

Office of External Relations

The Office of External Relations (ER) develops and maintains liaison between the Commission and its diverse external customers and is the point for 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 the Office of External Relations, 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. OCIO staff addresses information technology policy and information security, and provides project management skills. Within the OCIO, the Office of Information Technology Services (ITS) provides services for dockets, e-business, information security and infrastructure, and networking.

Office of the Director of Administration

The Office of Administration compiles the Commission's annual budget, prepares the appropriation and authorization requests, and closely monitors budget execution. The Office of Administration provides human resource services— including collective bargaining with union representatives—procurement and facilities management services, and is responsible for all Commission physical security matters. Component offices include Finance, Facilities Management, and Human Resources.

Office of Inspector General

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

Office of Equal Employment Opportunity

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

The Office of the Secretary

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

Performance Goals, Objectives and Results

The development of annual performance goals and the evaluation of performance results are integral to the process by which the Commission fulfills its mission. This section discusses the relationship of this report to other planning documents, provides an overview of the sixth edition of the Commission's Strategic Plan and the Commission's FY 2009 performance, and discusses issues related to reviews and evaluations.

Relationship to Other Planning Documents

In accordance with the Government Performance and Results Act (Results Act), the Commission issues a Strategic Plan and annual Performance Plans. The Strategic Plan establishes general goals and objectives for the Commission.

To enhance the effectiveness of strategic planning and budget development, the Commission has aligned its budget formulation and execution with its Strategic Plan. The annual Performance Plan is combined with the Commission's budget justification for that year to form a performance budget. The Performance and Accountability Report (PAR) relates directly to these planning documents and is prepared in a manner that is consistent with the provision of the Results Act governing program performance results. It delineates the extent to which the Commission has accomplished the goals established in the FY 2009 Performance Plan and the broader-based goals articulated in the sixth edition of the Strategic Plan. The Performance Plan for FY 2009 sets out performance goals and indicators for that year that correspond to the general goals and strategies in the Strategic Plan. The Performance Plan defines the level of performance to be achieved by the Commission in the year. The FY 2009 Budget Justification also briefly describes the operational processes, skills, and technology, as well as the human capital, information, and other resources required to meet the performance goals.

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

Overview of the Strategic Plan

The Commission issued the sixth edition of its Strategic Plan in September 2006 for FY 2006–2011. In this Plan, the Commission identified one strategic goal, which was to effectively conduct five strategic Operations:

- Import injury investigations
- Intellectual property-based import investigations

- Industry and economic analysis
- Tariff and trade information services
- Trade policy support

While the Commission has one program activity set forth in the Budget of the United States, the five strategic Operations define the functions of the Commission, emphasizing the benefits that the Commission provides in facilitating an open trading system based on the rule of law and the economic interests of the United States. Within each Operation, the Strategic Plan identified a general goal and strategies to enable the ITC to meet these goals. The Commission's annual performance goals related directly to these general goals and strategies.

The Commission recently issued the seventh edition of its Strategic Plan for FY 2009–2014. The ITC's annual Performance Plans beginning with FY 2010 and future Performance and Accountability Reports will address the strategic goals included in this Strategic Plan. Although the Commission revised the strategic and performance goals in the latest edition of its Strategic Plan, the ITC retained its five strategic Operations. Based on the new edition of the Strategic Plan, the Commission changed annual goals in its FY 2010 and 2011 Performance Plans that are due to be published in February 2010. The revised annual goals will reflect, inter alia, the Commission's experience in achieving its existing goals.

Performance Results in Brief

The PAR describes, for a specific fiscal year, the extent to which the Commission has met the performance goals established in the Performance Plan for that year. The report also discusses any instance in which the Commission did not meet a goal, and indicates the actions to be taken to ensure that goals are met in the future. The current report covers the Commission's performance in FY 2009 and also discusses for comparison purposes its performance in FY 2005–2008.

The annual performance goals created for FY 2009 relate closely to performance goals established for previous fiscal years. Where possible, the Commission developed or identified quantitative indicators for these annual goals and for those in ensuing years. In many cases, benchmarks for these indicators were established in past years and reported in the Commission's Performance Reports for those years.

In FY 2009, the Commission met or exceeded 75 percent of the annual performance goals it set for that year. This represents a 5 percentage point decrease relative to its FY 2008 performance but an improvement over previous fiscal years.

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
% of goals met/exceeded	70	75	71	82	75

The Commission met all of its performance goals that specified meeting established statutory and administrative deadlines, with the exception of one goal related to import injury investigations. This is notable in light of the continued significant activity in the area of intellectual property-based import investigations conducted pursuant to section 337 of the Tariff Act of 1930. Although the number of new section 337 investigations declined slightly from the all-time high in FY 2008, the time periods established for these investigations tended to lengthen. The Commission took action to reduce the average length of section 337 proceedings by hiring a sixth ALJ, establishing a Chief ALJ (in late FY 2008), and securing additional courtroom space.

Investigative and non-investigative activity in the other Operations did not change significantly in FY 2009 from FY 2008 levels. In particular, the number of new import injury investigations increased slightly and new industry and economic investigations remained the same. However, activity in both Operations picked up toward the end of the fiscal year. In particular, a third of new FY 2009 import injury investigations were filed in September 2009. Also during the year, the Commission responded to 94 requests from the USTR, the Committee on Ways and Means of the House of Representatives, and the U.S. Senate Committee on Finance for technical assistance on a wide range of trade-related topics.

The Commission continued to make significant progress in developing analytical methods and data that contributed to various Commission re ports, as well as to technical assistance provided to the executive branch and Congress. Accomplishments include completing investigations on topics such as: competitive conditions in foreign markets for property and casualty insurance services; the effects of infrastructure conditions on exports from sub-Saharan African countries; and the effects of significant U.S. import restraints. The latter study included a summary of U.S. trade policy history from 1934 to the present. The Commission continued to improve its economic modeling capability by enhancing its model of the U.S. economy through improvements and updates to much of its underlying data and significant progress in the area of model validation and also continued its research on the identification and quantification of various types of non-tariff measures (NTMs).

The Commission's efforts to achieve goals associated with making information available to the public electronically met with mixed results during FY 2009. The Commission met and exceeded all goals associated with making information available on the Electronic Document Information System (EDIS). This represents a significant and notable improvement in performance over FY 2008 and is the direct result of staffing, procedural, and programmatic changes implemented during FY 2008 and continued into FY 2009. In addition, the Commission released a re-engineered EDIS midway through FY 2009. To date, the new version has met performance expectations and has generated favorable feedback from users.

While the Commission continued efforts to improve the content and performance of its Web site, goals established for this area were not met. Users of the site continued to report difficulties, primarily with navigation. To improve user satisfaction and meet its performance goals, the Commission made significant improvements to the tariff and trade information sections of its Web site. Moreover, the Commission redesigned the entire Web site and deployed the new site in July 2009. The Commission has retained goals pertaining to different facets of its Web site in FY 2010 as the Web site is a primary means of providing information on its statutory and non-statutory activities to the public.

The Performance Section of this report provides a comparison of actual FY 2009 performance to the goals established for that fiscal year and, where appropriate, to baseline measures established in previous fiscal years. The discussion is organized by Operation. For each Operation, the strategies, corresponding performance goals and performance indicators, and results are discussed in detail.

Finally, the report identifies each specific goal that was not fully achieved and discusses corrective measures that the Commission has undertaken to achieve them.

Reviews and Evaluations

The Commission performs a review of the Strategic Plan on an annual basis. This includes an assessment of the general goals and strategies and how well the ITC implements and achieves them. As noted above, the seventh edition of the Strategic Plan was issued at the beginning of FY 2010. The Commission has also reviewed the goals in the FY 2010 Performance Plan in light of performance in FY 2009, changes made to the Strategic Plan, and considerations relating to the Commission's strategic human capital planning.[1]

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

Pursuant to the Results Act, the Commission conducts program evaluations to improve its plans and operations. The Commission has been exploring ways to organize the conduct of such evaluations. The sixth edition of the Strategic Plan included, for several Operations, a strategy for the undertaking of regular independent reviews and assessments to identify areas for potential improvement. The FY 2009 Performance Plan translated this strategy into performance indicators and goals for those Operations. As discussed in more detail in the Performance Section of this report, the agency conducted a review of processes associated with Strategic Operation No. 1 and more targeted reviews of elements of Operation Nos. 3 and 4.

In preparing the seventh edition of the Strategic Plan, the Commission moved the descriptions of evaluations out of the sections on the individual Operations and into a general discussion of goals and strategies. This reflects a new, more centralized approach

[1] Adjustments to specific performance goals are discussed below under the respective operation, as appropriate.

to conducting evaluations coordinated by the Commission's Strategic Planning Committee. The first evaluation under the new Strategic Plan, concerning Operation No. 2, is currently underway.

Management Initiatives

The Commission's management initiatives, intended to improve the quality of its performance and delivery of services to the public, are (1) Service Contracting, (2) Financial Management, (3) Strategic Budgeting, (4) Electronic Public Access, and (5) Human Capital Planning. The Commission has addressed each initiative with an approach to maximize its value to the public.

Service Contracting

The Commission has successfully controlled its operating costs by maximizing the use of competitively awarded service contracts consistent with Federal Acquisition Regulations. The Commission competitively contracts for information technology services and hardware, certain editing and publishing services, audit and financial services, advisory and assistance services, and a variety of security services. Core functions of the Commission are performed by federal employees. Activities that are more effectively supplied by the private sector are contracted out. More than 10 percent of the regular on-site staff at the Commission consists of private sector contract employees.

Financial Management

The Commission received a disclaimer for its financial statements for FY 2009. The implementation of a new financial system by the Department of Interior's National Business Center (NBC) failed to meet performance expectations and did not provide reliable year-end reports. The inability to obtain timely and sufficient financial reports meant that the auditors could not express an opinion on the FY 2009 financial statement at the time of this report.

The Commission has a long-established record of prudent fiscal management and cost control. The Commission has maintained a history of absorbing costs whenever possible and minimizing increases in its appropriation request from year to year. Approved staffing levels remained consistent over the last several years, but the vacancy rate gradually declined as on-board staffing gradually increased. Funding increases have been related to the increased on-board staffing and required increases in salaries and benefits.

Strategic Budgeting

In FY 2009 the Commission continued to build on its successful program of linking financial resources with strategic goals. The Commission allocates virtually all costs to one of the five operations set forth in the Strategic Plan. Personnel costs are 69 percent of total costs; therefore, the Commission utilizes a labor cost reporting system to attribute resources directly to strategic operations in almost all instances.

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

Strategic Budgeting:
Percentage of Resources Devoted to Each Operation

Operation	FY 05	FY 06	FY 07	FY 08	FY 09
Import Injury Investigations	39.4	34.9	29.7	29.4	29.1
Intellectual Property-Based Import Investigations	18.1	19.5	20.9	24.3	27.6
Industry and Economic Analysis	29.7	31.9	38.0	34.9	34.2
Tariff and Trade Information Services	5.5	6.2	5.2	6.8	4.6
Trade Policy Support	6.0	6.3	6.3	4.6	4.4
Unallocated Costs	1.3	1.1	N/A	N/A	N/A

Notes:

(1) The source of the data in this table is the Commission's annual Budget Justification.
(2) The data for FY 2009 are based on an estimate from the Commission's FY 2010 Budget Justification.
(3) Percentages are derived from direct labor charges and indirect labor and non-personnel charges to various operations as recorded in the ITC's labor cost reporting system.
(4) Prior to FY 2007, unallocated costs were not distributed across the five operations and included funding for the IG, certain labor costs, union activities, and certain other non-personnel costs.
(5) Columns may not total exactly 100.0% as a result of rounding for individual operations.

Electronic Public Access

The Commission considers electronic public access goals during the initiation phase of every major information technology (IT) project and in the Commission's investment review process. During FY 2009 the Commission made significant advances through embracing technological solutions that improved customer service and streamlined internal processes.

Electronic public access service improvements were brought about through three major technological initiatives: (1) release of a re-engineered version of EDIS, (2) deployment of an online search capability of the HTS, and (3) deployment of a re-designed Commission Web site. With the re-engineered version of EDIS, the Commission and practicing parties saw improvements in overall performance, usability and reliability through the implementation of a new software and hardware architecture featuring redundancy of most system points. It also features a central home page for all EDIS functions, improvements in the electronic submission process allowing external users to receive electronic notification of document submissions via a Really Simple Syndication (RSS) feed, and improvements in the document approval interface modeled after the case management paradigm adopted by Docket Services. The Commission expects to continue adding enhancements to EDIS during FY 2010 with a focus on providing better reporting and supporting the entire investigative process.

The second major electronic public access initiative during FY 2009 was the deployment of an online search capability of the HTS. This tool provides users with an up-to-date, accurate and user-friendly means of accessing the HTS data. In addition, it provides direct, correlated access to the most recent classification rulings on the Customs Ruling Online Search System (CROSS), direct links to HTS Chapter 99 and footnotes, and a thesaurus to reflect common terminology for improved searchability.

The third electronic public access improvement implemented in FY 2009 was the redesign of the public Web site (*http://www.usitc.gov*). The goal of this initiative was to improve user satisfaction, focusing on navigation and searchability aspects, and to make expanded use of a content management system for managing Web site information.

Human Capital Planning

The Commission's ability to accomplish its mission is directly tied to the quality and competency of its workforce. Therefore, it is critically important that the Commission manage its human capital strategically. The Strategic Human Capital Plan is an essential component of the Commission's strategic planning. It serves to:

- define human capital goals
- summarize the projected changes in the workforce assets
- identify strategies to achieve the human capital goals and an action plan for implementing the intervention strategies

Through interviews with Commission managers and customers, and collaboration with the Office of Personnel Management (OPM), the Commission has developed a vision of the kind of future workforce it needs. The workforce vision serves to guide the strategic human capital planning effort by providing a clear target to guide human capital initiatives and plans.

The Commission is now in the process of implementing or has implemented priority components of the Strategic Human Capital Plan to support this vision. These components are:

- additional Occupation Guides for management support positions as well as leadership positions
- a management and leadership development program, including a 360° assessment component and beyond
- a philosophy for performance management and pay and associated training, which includes the implementation of a newly developed performance management system for Commission employees under the General Schedule pay system
- a position classification study that will include the review of all positions in the Commission
- comprehensive assistance to managers on developing workforce position descriptions

- updated human resources directives, policies and procedures
- implementation of electronic Official Personnel Folders
- implementation of the New Employee Orientation Web site

The purpose of the Strategic Human Capital Plan is to help the Commission anticipate future human capital issues and begin taking steps today to resolve those issues or to be prepared to better respond to them when they arise. These initiatives will ensure that the key priorities described in the plan are achieved. The Commission expects the Strategic Human Capital Plan to be a living, evolving document that will be modified as the Commission reevaluates its mission in light of experience and changing external circumstances. Accordingly, the Commission's Strategic Planning Committee, which is composed of senior managers, completed its review of the Strategic Human Capital Plan in FY 2009. The Commission expects to finalize the revised plan in FY 2010. The Commission has received provisional certification from OPM of its Senior Executive Service performance appraisal system and is seeking full certification of the system.

Overview of Financial Results

The Commission received a disclaimer on its FY 2009 financial statements. The auditor was unable to thoroughly test all of the Commission's financial statements. The audit result stems from delays in the retrieval of timely and testable supporting documents from the new financial system that was implemented at the beginning of FY 2009, and from restatement of prior year financial statements. The Commission, its in-house staff, and the Department of Interior's National Business Center remain committed to eliminating system-related delays in the future. In FY 2010 the Commission anticipates full compliance of its financial statements to federal financial management provisions, including those related to financial management systems, accounting standards, and the U.S. Government Standard General Ledger.

Overview of Financial Statements

- *Summary of the Balance Sheets and Statements of Changes in Net Position*

Assets: At the end of FY 2009, the Commission's Balance Sheets showed total assets of \$13.5 million, a decrease of \$0.4 million or 3 percent over FY 2008. The overall decrease was attributable to \$1.4 million, or 31 percent decrease in equipment, which was partially offset by an increase in accounts receivable of \$0.2 million. The reduction in equipment was due to capitalized internal-use software that was decommissioned in FY 2009; there were no deletions to equipment in FY 2008. The \$0.2 million (100 percent) in accounts receivable was due to an intragovernmental overcharge of printing services.

Liabilities: At the end of FY 2009, the Commission's total liabilities were \$7.6 million, an increase of \$0.5 million or 7 percent over FY 2008. The increase in total liabilities was primarily the result from an increase in accrued funded payroll, withholdings payable, and employer contributions and payroll taxes payable of an aggregate increase of \$0.3 million or 10 percent.

Net position: Changes affecting two components of the net position were cumulative results of operations and unexpended appropriations. The Commission's net position on the Balance Sheets and the Statements of Changes in Net Position was \$5.9 million, a decrease of \$0.9 million or 13 percent below the FY 2008 ending net position of \$6.8 million. Financing sources from appropriations used during the year were \$74.8 million and imputed financing sources totaled \$3.3 million. The imputed financing consisted of \$1.3 million in future retirement benefits and \$2 million in future health and life insurance benefits accrued in FY 2009, which will be paid to entities other than the Commission. The net costs of operations totaling \$79.3 million exceeded the financing sources described above by \$4.5 million for a decrease to total net position. The amount of Unexpended Appropriation increased by \$0.4 million.

- *Summary of the Statements of Net Cost*

The Commission's net cost of operations for FY 2009 was \$79.3 million, an increase of \$8.2 million or 12 percent over FY 2008. The increase in net cost of operations was primarily the result of an increase in losses on disposition of asset of \$2 million or 100 percent and an increase in Operating Expense and Benefit Program Expense of $5.5 million or 8 percent.

- *Summary of the Statements of Budgetary Resources*

The Statements of Budgetary Resources provide information on budgetary resources made available to the Commission and the status of these resources at the end of the fiscal year. For FY 2009, total Budgetary Resources were $75.6 million. This represents an increase of $6.7 million, or 10 percent, over the total Budgetary Resources of $70.3 million in FY 2008. Additionally, direct obligations were $75.4 million and net outlays totaled $74.4 million. This represents an increase in direct obligations of $5.5 million or 8 percent and an increase in net outlays of $6.8 million or 10 percent.

- *Summary of the Statements of Custodial Activity*

There was no statement of custodial activity reported for FY 2009. For FY 2008, custodial activity reported was $250,000 in penalties collected and $250,000 in accrual adjustments.

Limitations of Financial Statements

The Commission's financial statements were prepared in conformity with the hierarchy of accounting principles approved by the Federal Accounting Standards Advisory Board and the Office of Management and Budget (OMB) Circular A-136 Financial Reporting Requirements, June 10, 2009. They were prepared pursuant to the requirements of Chapter 31 of the United States Code, Section 3515(b). The Commission is fully committed to the principles and objectives of the Chief Financial Officers Act of 1990, the Federal Financial Management Improvement Act of 1996, and the Accountability of Tax Dollars Act of 2002.

Responsibility for the integrity and objectivity of the information presented in the financial statements rest with the Commission's management, which uses additional financial reports, prepared from the same books and records, to monitor and control budgetary resources. The financial statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity. One implication is that unfunded liabilities cannot be liquidated without legislation that provides resources to do so.

Management Controls and Compliance with Laws and Regulations

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

Statement of Assurance

The Commission's management is responsible for establishing and maintaining effective internal control and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act (FMFIA). The Commission conducted its assessment of the effectiveness of internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with OMB Circular A-123, Management's Responsibility for Internal Control. Based on the results of this evaluation, the Commission can provide reasonable assurance that its internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations as of September 30, 2009 was operating effectively and no material weaknesses were found in the design or operation of the internal controls.

In addition, the Commission conducted its assessment of the effectiveness of internal controls over financial reporting, which includes safeguarding of assets and compliance with applicable laws and regulations. Based on the results of this evaluation, the Commission can provide reasonable assurance that its internal controls over financial reporting as of June 30, 2009 were effective and no material weaknesses were found in the design or operation of the internal controls over financial reporting.

In light of the difficulties encountered in the financial statement audit and the deficiencies noted by the auditors after September 30, 2009, the Commission intends to review all of its internal controls, develop a more robust and comprehensive system of internal controls, and provide additional resources for monitoring and testing of internal controls during FY 2010.

Shara L. Aranoff

Shara L. Aranoff
Chairman

Federal Managers' Financial Integrity Act

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

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

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

Government Performance and Results Act

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

Federal Financial Management Improvement Act

Under the Federal Financial Management Improvement Act of 1996 agencies are required to report on whether their financial management systems substantially comply with the federal financial management systems requirements, applicable federal accounting standards, and the United States Standard General Ledger at the transaction level.

The Commission's new financial management system, Oracle Federal Financials, made it difficult to prepare reliable, timely financial statements. The new system failed to meet reasonable performance expectations. The processes required extensive, time-consuming adjustments and customer assistance support from the provider (National Business Center) in order to report accurate financial information. The OIG, in its semiannual report (October 1, 2008 – March 30, 2009) noted in the Commission's Top Management Challenges that "…the Commission still faces the challenge of integrating and implementing a new financial system, Oracle Federal Financials." Although this major application upgrade is suppose to provide a more responsive and reliable financial system, it has required re-training of accounting, procurement, and budget staff as well as cost center managers. Obviously this challenge has yet to be met.

The Commission continues to face the challenge of developing financial policies and procedures for the new system, and enforcing those procedures on a consistent basis in order to return to its accustomed position of reliability for its financial statements.

Federal Information Security Management Act

The Federal Information Security Management Act (FISMA) was passed by Congress and signed into law by President Bush as part of the Electronic Government Act of 2002. FISMA requires each federal agency to establish and maintain an information security program for all non-national security information and information systems. The Commission's information security program includes a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in its information security policies, procedures, and practices. In addition, FISMA requires the OIG to perform an annual independent evaluation.

During FY 2009, the Commission maintained its information security program by (1) providing annual information security awareness training to its user community, including contractors; (2) certifying and accrediting two major information systems; (3) performing annual assessments on its remaining major information systems, incorporating the testing of management, operational and technical security controls; (4) maintaining the process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices; (5) maintaining procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued by the OMB and the National Institute of Standards and Technology (NIST); and (6) applying secure configuration baselines from NIST, based on functional requirements.

The OCIO addressed all the findings documented in the Federal Information Security Management Act Fiscal Year 2008 Performance Audit, OIG-02-08. The carryover findings from prior year reports have not been satisfied due to a lack of resources and funding. The primary outstanding issue is the lack of progress in continuity of operations and contingency planning.

Accountability of Tax Dollars Act

The Accountability of Tax Dollars Act of 2002 requires the preparation of financial statements by the federal agencies that were exempted by the Chief Financial Officers Act of 1990. OMB Circular No. A-136 (Revised) (July 10, 2009) on "Form and Content of Agency Financial Statements," requires agencies to consolidate their audited financial statements and other financial and performance reports into one report, the PAR. This report meets the requirements of the Act.

Improper Payments Information Act

The Improper Payments Information Act of 2002 requires an annual review of agency programs and activities that may be susceptible to significant improper payments.

OMB's guidance, issued in 2003, requires the inclusion of improper payments information in the PAR.

The Commission's payments are tied to payroll and standard non-personnel costs such as space rental, travel, training, services, supplies, and equipment. The Commission does not generally have any significant problems related to improper payments. In FY 2009, however, the Commission experienced three instances of improper payments—two of these were major overpayments. The overpayments involved erroneous billing by two other government agencies (the U.S. General Services Administration (GSA) and the Government Printing Office (GPO)). All three overpayments were detected and corrected by Commission staff.

The largest "overpayment" resulted from billing errors by GSA on the Commission's main lease and its warehouse lease. GSA erroneously overcharged the Commission in excess of $1.5 million. Because GSA automatically debits the Commission's rent bill from the proper account, the Commission has no control over improper billing for space rental, resulting in an "overpayment." Commission staff immediately noted the errors on the billing, advised GSA of those errors, and worked with GSA staff to correct the errors. Commission staff closely monitors rent bills and GSA transactions to identify improper billing as soon as it occurs and works diligently to recover such involuntary overpayments. Management and staff have also explored the possibility of removing the Commission from GSA's automatic payment system to prevent future issues. In addition to monitoring the rent bill and all transactions with GSA, Commission staff and senior managers closely monitor execution of the Commission's expenditure plan. The Office of Finance and the IG regularly review payment procedures.

The other major overpayment was the result of GPO overcharging the Commission $211,000 for printed copies of the Harmonized Tariff Schedule of the United States (HTS). After Commission staff advised them of the discrepancies, GPO staff corrected the error. The Commission allows agencies to "ride our requisition" when they place print orders for the HTS, resulting in cost savings for those agencies. Beginning in FY 2007, the Commission reduced the number of printed copies of the publication, primarily because the Commission experienced a sharp increase in the number of its customers downloading the electronic version via the agency's Web site. In January 2009, an invoice was received for the fall 2008 printing of the HTS. OCIO staff reviewed the invoice and contacted GPO to inform the billing department that the cost seemed to be disproportionate to the number of copies and asked GPO to review the invoice for accuracy. After several months of pursuing the issue with GPO it was discovered that for the past two years GPO had overcharged the Commission for not only the printing costs of its copies of the HTS, but also for those agencies that placed their print orders against the terms of the Commission's contract with GPO.

Going forward, the OCIO has developed a process to help mitigate the risk of being over billed for the printing of the HTS. First, OCIO will ensure that both the printer (who prints and delivers the publications to the individual agencies) and GPO (who handles the billing to each agency) have all the separate rider requisitions for the print order. Second, OCIO will request a cost estimate for the printing of only its copies of the HTS. This will give Commission staff some early indication of whether the job is being billed properly. Third, if it is possible in the GPO accounting system, Commission staff will order numbers for each individual agency's print request. That is, each agency will have to establish a HTS printing program with GPO. This will still allow each agency to ride the Commission's print order, but it will require them to use their own order number and not the Commission's for their rider requisitions.

The minor overpayment was a duplicate payment of a performance award of $2,500 made by the Office of Human Resources (HR) to a Commission employee. This award was entered into the payroll system twice, but was discovered and corrected during a quality control review by HR staff. The performance award was entered by one HR assistant, but the mark indicating the action was completed was missing. When the second HR assistant did not see the mark on the appraisal, she also entered the action. The second HR assistant did not check the online system prior to entering the transaction. If the proper screen had been viewed, all of the actions for that employee would have been displayed. Ultimately, HR discovered the duplicate payment, alerted the employee, and initiated the debt recovery process. The Director of HR is requiring staff to initial the hardcopy of a performance appraisal after it has been entered into the payroll system and to view the proper screen prior to processing a performance award.

Prompt Payment Act

The Prompt Payment Act of 1982, as amended, provides government-wide guidelines for establishing due dates on commercial invoices and provides for interest payment on invoices paid late. During FY 2009 the Commission migrated to a new financial accounting system, underwent training on the new system and implemented a new invoice payment process. During the execution phase of the new invoice payment process there were a few concerns with the proper vendor set-up and payment due date set-up on the new system. Additionally, during the transition to the new system, the accounts payable specialist left and as a result the Commission was temporarily understaffed until replacement personnel was hired and trained. During this transition period the Commission had problems with some transactions that led to late payments on 13% of all invoices and an interest penalty of $3,278. Going forward, the Commission projects that the number of late payments will be reduced significantly as its staff becomes more familiar with the new financial accounting system.

Inspector General Act

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

Summary of Recent Audit Activity

- *Independent Auditor's Report of the U.S. International Trade Commission's Financial Statements for Fiscal Years 2008 and 2007 and the Commission's Management Challenges OIG-01-09 (November 14, 2008)*

An independent public accounting firm, working under the IG's supervision, performed an audit of the Commission's financial statements for fiscal years 2008 and 2007. The independent auditor found no internal control deficiencies and no reportable noncompliance with laws and regulations. As part of the audit, the IG reported on the top management challenges facing the Commission, as well as recent IG activities relating to each challenge.

- *Management Letter for the Fiscal Year 2008 Audit of the U.S. International Trade Commission's Financial Statements (March 25, 2009)*

As a result of the audit of the financial statements of the Commission for FY 2008, the IG issued an unqualified opinion on the statements along with recommendations to strengthen internal controls over procurement, property and cash. The independent public accounting firm that performed the audit issued a management letter that identified issues that were not required to be included in the financial statement audit report.

The IG made five recommendations, which will assist the Commission in correcting the issues. The Commission agreed with the findings and presented actions, which addressed the recommendations.

Performance Section

Strategic Operation No. 1: Import Injury Investigations

Strategic Operation No. 1 covers the conduct of the Commission's antidumping (AD) and countervailing duty (CVD) investigations and reviews under title VII of the Tariff Act of 1930 and global safeguard and market disruption investigations under sections 202, 204, 406, 421, and 422 of the Trade Act of 1974. In addition, the Operation includes activities such as investigations under sections 302 and 312 of the North American Free Trade Agreement (NAFTA) Implementation Act; investigations under section 129(a)(4) of the Uruguay Round Agreements Act (URAA); and the appellate litigation of challenges to the Commission's determinations.

The sixth edition of the Commission's Strategic Plan established the following general goal for this operation:

- *Facilitate a rules-based international trading system by producing high-quality and timely import injury determinations based on*
- *an effective exchange of information between the Commission and interested persons,*
- *an appropriate investigative record, and*
- *fair and equitably implemented procedures.*

The agency's workload related to original title VII investigations declined from FY 2008 to FY 2009, as institutions of preliminary phase investigations rose but institutions of final phase investigations fell: completions of preliminary phase investigations decreased from a period high in FY 2008, and completions of final phase investigations increased by a single case. Five-year reviews remained relatively stable in terms of institutions and completions but began to shift towards full reviews by the end of the fiscal year. New case filings increased in FY 2009, particularly at the end of FY 2009 with five new preliminary investigations filed in the last month of the fiscal year; in fact, new filings in FY 2009 were higher than they had been in any of the previous five fiscal years (table 1-1). The Commission did not conduct any global safeguard investigations in FY 2009; however, it did conduct one China safeguard investigation.

Institutions of five-year "sunset" reviews of outstanding AD and CVD orders, required by the URAA, were little changed from FY 2007 and FY 2008 levels (table 1-1). The review workload has been somewhat cyclical in nature because of the large number of orders in place before the World Trade Organization (WTO) Agreement entered into force with respect to the United States. The heaviest workload related to the second round of these "transition" orders occurred in FY 2005 and FY 2006. Reviews of orders currently in place are increasingly relatively dispersed over time; however, institutions will increase again in FY 2010 and FY 2011 as the third round of transition orders continues to be instituted.

During FY 2009, the number of investigations active in each month indicates that workload in Operation No. 1 was somewhat lower than in FY 2008 but similar to that in FY 2007 (figure 1-1). Performance results for FY 2009 are discussed in detail below.

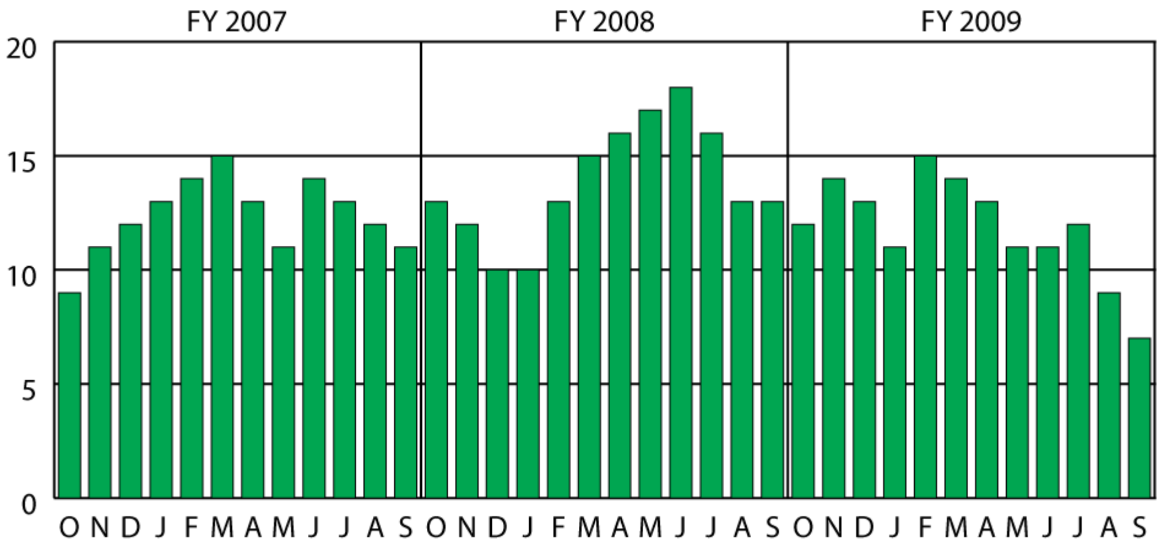
Table 1-1: Summary of import injury investigations, FY 2005–2009

Type and status	FY 2005	FY 2006	FY 2007	FY 2008	FY2009
Instituted:					
Preliminary title VII[a]	7	5	13	13	15
Final title VII[a]	7	4	6	16	8
Expedited sunset[b]	12	7	6	5	3
Full sunset[b]	22	11	7	6	8
Other[c]	5	1	2	3	2
Total	53	28	34	43	36
Completed:					
Preliminary title VII[a]	6	6	9	18	10
Final title VII[a]	15	6	3	12	13
Expedited sunset	6	13	6	4	4
Full sunset	10	22	10	7	5
Other[c]	4	3	3	2	3
Total	41	50	31	43	35

Source: INV.

[a] The data shown are for preliminary and final phase Title VII investigations group AD and CVD investigations together since these investigations generally run concurrently and are handled by the same investigative team.
[b] Does not include investigations that were terminated without a Commission determination.
[c] Includes global safeguard investigations, China safeguard investigations, remands with reopened records, and other investigations.

Figure 1-1: Import injury investigations active, by months, for October 2006 through September 2009



Source: INV.

Note: Because active investigations are based on reporting at the beginning of each month, the number of active cases in September 2009 does not include five preliminary phase investigations instituted as a result of petitions filed later in the month.

FY 2009 Performance

The sixth edition of the Strategic Plan established three strategies for this Operation and the FY 2009 Performance Plan set corresponding annual performance goals and performance indicators. The performance results for FY 2009, discussed below, demonstrate that the Commission met or exceeded all specific performance goals established for the year with two exceptions. One exception relates to the overall satisfaction score received for the Operation No. 1 Web pages as determined via a user survey. In contrast, the Commission showed significant improvement in its performance numbers with regard to the speed of posting documents for public viewing on EDIS, allowing it to meet its performance goals in this area for the second time overall.

All draft import injury investigation and litigation documents were internally reviewed, and investigative teams participated fully in opinion meetings. With the exception of one memorandum, all statutory and administrative deadlines were met with respect to issuing determinations, reports, memoranda, opinions, and briefs.

Measures were taken to improve methods of collecting and processing investigative data to develop more accurate and complete administrative records, and to better provide information to the public. During FY 2009, the Commission deployed a new public Web site with the goal of improving its ease of use. Furthermore, the Commission introduced a new version of EDIS during FY 2009, and with this version the Commission again exceeded goals it established regarding document availability.

Strategy 1: Conduct appropriate internal review of draft investigation and litigation documents

FY 2009 Performance Goals

a. 80% positive response from Commissioners on sufficiency of information in the record.
b. 100% of draft reports circulated for review.
c. 100% of draft legal issues memoranda, draft opinions, and draft briefs circulated for comment.
d. 100% team participation in opinion meetings and in comments on opinion drafts, absent compelling reason for non-participation.

Performance Indicators[a]

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

[a] The offices shown in parentheses are the staff offices responsible for measurement.

Record sufficiency

During FY 2009, the Commission met its goal regarding record sufficiency. Commissioners were polled concerning the completeness, reliability, and usefulness of data in all import injury investigations conducted during the year. As in previous years, the performance goal was met. In addition, during FY 2009, Commission staff established an internal review group to evaluate the process of Operation No. 1 investigations and the production of staff reports. One of the primary goals of this evaluation was to further improve the information contained in staff reports. Revisions were made to staff reports in response to feedback from Commissioners, and a new feedback process was implemented to monitor Commissioner satisfaction.

In FY 2008, the Commission published a notice in the *Federal Register* seeking comments on proposed changes to the conduct of five-year reviews, specifically shortening the period available to interested parties to respond to questions in the notice of institution, seeking additional information from interested parties through the notice of institution and, in certain circumstances, seeking information from purchasers during the adequacy phase of five-year reviews. After examining comments made on potential changes in the way five-year reviews are conducted, the Commission began to collect additional information from interested parties through the notice of institution and from purchasers through questionnaires. This improvement provides the Commission with a more complete record upon which to make adequacy determinations.

Document review and team participation

During FY 2009, all 53 draft prehearing and final staff reports were circulated to investigative teams and senior staff for review and comment. Similarly, all 36 draft legal issues memoranda and all 37 draft opinions were circulated to investigative teams for review. During FY 2009, 15 draft briefs, as well as 2 draft remand determinations, were prepared, and all were circulated to the Commission for comment. These results are comparable to those in FY 2005–2008 (table 1-2). Furthermore, during FY 2009, there was full and active team participation in all opinion writing meetings and in the opinion review process.

Table 1-2: Number of documents circulated for review, FY 2005–2009[a]

Item	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Draft prehearing and final reports	71	71	47	61	53
Draft legal issues memoranda	38	48	30	42	36
Draft opinions	38	48	30	44	37
Draft briefs	20	12	23	19	15

Source: INV and GC.

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

Strategy 1(b): Meet statutory, court, and administrative deadlines

FY 2009 Performance Goal

100% of documents submitted on time.

Performance Indicator[a]

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

[a] The offices shown in parentheses are the staff offices responsible for measurement.

Document Submission

During FY 2009, the Commission met all of its statutory deadlines, as all 37 determinations were issued on or before their deadlines. Further, with regard to administrative deadlines, all 17 prehearing reports, all 36 staff reports, and all 37 draft opinions prepared during the year were issued in accordance with established or amended agreed-upon schedules. Thirty-five of 36 legal issues memoranda met established administrative deadlines. The one exception was issued one day late. During FY 2009, the Commission filed 15 briefs, as well as 2 remand determinations, and all were filed on time. In addition, the Commission filed two motions and supporting memoranda to dismiss a Court of International Trade appeal. These results are consistent with those in

FY 2005 through FY 2008, as the Commission met this goal throughout that period (table 1-3).[2]

Table 1-3: Number of documents issued on time, FY 2005–2009[a]

Item	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Determinations	40	49	30	44	37
Prehearing reports	29	27	12	21	17
Staff reports	42	44	34	40	36
Legal issues memoranda	37	48	30	42	35
Draft opinions	38	48	30	44	37
Briefs	20	12	23	19	15

Source: INV and GC.

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

[2] The above does not include documents in certain proceedings where the agency did not establish deadlines.

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

FY 2009 Performance Goals

a. Progress is made on improving methods of gathering and processing investigative data.
b. (1) Semiannual reviews and revisions completed.
   (2) 1 point improvement over FY 2008 level.
c. (1) 75% of documents filed are made available on EDIS within 24 hours.
   (2) 85% of documents filed are made available on EDIS within 48 hours.
   (3) Working group meets quarterly to consider and report on issues related to electronic filing and maintenance of records on EDIS.
   (4) 99.5% availability rate for EDIS.

Performance Indicators[a]

a. More effective information management methods adopted (INV/ITS).
b. Review of Web site and revision of content as appropriate (INV); level of satisfaction reported by users of the ITC import injury Web pages (ITS).
c. Prompt entry of documents into EDIS after filing, and improvements adopted (ITS).

[a] The offices shown in parentheses are the staff offices responsible for measurement.

Investigative data collection and processing

During the past five years, the Commission has met its goal with regard to effective data collection and processing by conducting regular reviews of its data collection and processing procedures for import injury investigations. In FY 2007, pursuant to comments submitted by the trade bar, the Commission began to issue import injury questionnaires in Microsoft Word format for ease of use by responding parties. In addition, the Commission created templates for questionnaires in Word using form fields so that respondents could enter data into those fields electronically and staff could more efficiently process the information. The Commission completed this conversion for all questionnaires in FY 2008. During FY 2009, the Commission continued to examine generic questionnaires used in original and review investigations to ensure that questions and data requests were clearly presented, and ambiguous or unnecessary questions were eliminated. In an effort to address issues raised in recent court determinations, the Commission expanded data collection efforts in some areas.

Web site review

During FY 2005–2009, the Commission generally met its goals to provide information to participants and the public. The Commission makes a variety of materials related to import injury investigations available in paper form, as well as on its Web site, in a manner consistent with established guidelines. The Commission has conducted regular reviews of its Web site over the last several years and in FY 2005 made a newly redesigned Web site accessible to the public. In connection with this project, substantial efforts were made to expand the content relating to import injury investigations and to improve the ease of navigation through this content. Separate sections of the Web site are devoted to AD/CVD investigations and reviews and safeguard investigations, with links to publications and other documents of general interest to the public in that particular area, including relevant statutes, the Commission's *Rules of Practice and Procedure*, the Blue Book (*The Antidumping and Countervailing Duty Handbook*, ITC Publication 4056, December 2008), the Red Book (*An Introduction to Administrative Protective Order Practice in Import Injury Investigations*, ITC Publication 3755, March 2005), Import Injury Investigations Case Statistics, information on outstanding AD and CVD orders, and statutory timetables, as well as links to EDIS, the Sunset Reviews Web page, and Web sites of related government agencies. A major innovation for import injury investigations was the addition of a separate page for each active and recently completed investigation and review. These pages feature scheduling information, contact information for assigned staff, relevant *Federal Register* notices, questionnaires, transcripts, service lists, news releases, public reports including Commission opinions, and other documents that relate to a particular investigation or review. A new public Web site was deployed in FY 2009 with the goal of improving its ease of use and navigation.

During FY 2006, the Commission took steps to measure visitors' level of satisfaction with the Commission's import injury investigations Web pages. Data for gauging satisfaction were gathered through a tool, the Foresee Government Satisfaction Index (Foresee), which conducts a survey using a random sample of visitors to this section of the *http://www.usitc.gov* Web site. The satisfaction score is a weighted average of responses to survey questions. The result of this effort yielded an average baseline satisfaction score of 68.5 for Operation No. 1 pages of the Web site in FY 2006.[3] In FY 2007, the satisfaction score improved to 71.0. To support this improvement initiative, an agency Web advisory committee met regularly to provide feedback on Web site usability and to propose actions for improving users' satisfaction.

During FY 2009, the agency continued to measure visitors' level of satisfaction with the ITC's import injury investigations Web pages using the survey results. The resulting overall satisfaction score for Operation No. 1 Web pages was 62 for FY 2009. This represents a decline in the satisfaction score from the FY 2008 level and thus did not meet the performance goal of increasing in the rating scale. Visitors to the Operation No. 1 Web page generally reported higher scores for the Web page content and lower scores for search and navigation. In addition, quarterly Foresee results indicate higher satisfaction scores at the beginning and end of FY 2009 (71) and lower levels in between. As noted, the Commission deployed a new Web site in FY 2009, and there were some ensuing problems with links to documents which may have affected the satisfaction of visitors. Higher satisfaction scores in the last quarter of FY 2009 likely reflect the

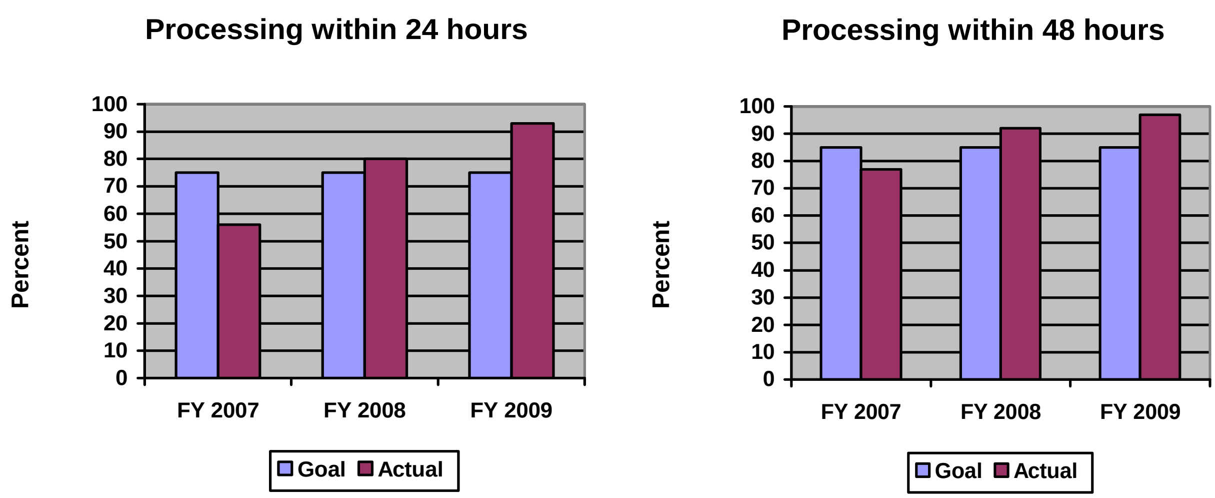
[3] The goal is expressed in terms of points rather than percentage increases because points more closely align with the satisfaction rating scale, which is 0-100 points, and to provide a more equal metric throughout the rating scale.

correction of linkage problems and users' increased familiarity with the newly designed Web page.

Document processing and availability

Over the past 10 years, the Commission has met an objective of providing an electronic method of information exchange between the Commission and parties via EDIS. In FY 2007, the agency began implementing a case management paradigm for handling investigation documents to more efficiently process them and make them available to the public. With regard to measuring the time from filing to availability of a document submitted to EDIS, the numbers show that continued improvement has been made as a result of these efforts and the performance measurement goals were met. In FY 2009, the Commission completed processing of 93 percent of the documents for Operation No. 1 within 24 hours, exceeding the goal of 75 percent (figure 1-2). The Commission completed processing 97 percent of the documents within 48 hours, exceeding the goal of 85 percent. By comparison, in FY 2008, 80 percent of documents in Operation No. 1 were made available on EDIS within 24 hours, and 92 percent were made available within 48 hours. In FY 2007, only 56 percent and 77 percent of documents were processed within 24 and 48 hours, respectively. Thus, in FY 2009, there was a 13-percentage point improvement over the previous year in the number of documents processed within 24 hours and a 5-percentage point improvement in the number of documents processed within 48 hours.

Figure 1-2: Document availability, by year, for October 2006 through September 2009



Source: ITS, Docket Services.

Note: Represents the time from filing of a document to the availability of the document in the EDIS system.

The version of EDIS released in FY 2006 provided a simplified and intuitive interface designed to improve public access to documents and to make document filing easier. On balance, the feedback received from users has been generally positive. The search enhancements include refined search options for tailoring research, faster retrieval times, comprehensive document retrieval options, and targeted search results.

During FY 2008, the Commission implemented further improvements to EDIS to improve the response time of updates to document metadata. A working group continued to meet quarterly to discuss and review proposed EDIS enhancements, focusing on business process decisions related to improving the accuracy and availability of the administrative record and ensuring all business requirements were met.

In order to improve user satisfaction with EDIS further, the Commission undertook an effort beginning in FY 2007 and continuing through FY 2008 to re-engineer EDIS, with improvements in performance, reliability, document processing efficiency, ease of use, and accuracy being the primary goals. During FY 2009, the Commission released a re-engineered version of EDIS. The new hardware architecture and an updated software suite, which is more user-friendly and maintainable, have improved the overall performance of the system and are expected to benefit both the Commission and outside parties. The Commission established an additional goal related to EDIS performance for FY 2009. The agency met its availability performance goal by maintaining an uptime of 99.98 percent, exceeding the goal of 99.5 percent. To date, the new version of EDIS has been a more reliable and stable system than its predecessor, thus providing more reliable accessibility of documents to users.

Strategy 3: Undertake regular independent reviews and assessments of the import injury investigations program or its components to identify areas for potential improvement.

FY 2009 Performance Goal

Obtain Commission approval of subject area to be covered by first independent review.

Performance Indicator[a]

Independent, objective review identifies areas for potential improvement (INV).

[a] The office shown in parentheses is the staff office responsible for measurement.

Review of program

In recent years, the Commission has actively sought advice from participants in import injury investigations and other interested persons concerning ways in which it might more effectively interact with the public in executing its statutory responsibilities. In 2008, the Commission published notice of a proposed rulemaking to amend the period for submitting responses to notices of institution of five-year reviews and provided the public with an opportunity to comment on this proposal and other proposals that would not require rule changes, including seeking additional information from interested parties and from purchasers in the adequacy phase of five-year reviews (73 FR 40992, July 17, 2008).

A scope for the first independent review and assessment of the import injury investigations program or its components was identified in FY 2008. As indicated, during FY 2009, the Commission performed an in-depth internal review of its practices and procedures with regard to import injury investigations. Pursuant to this review, the Commission made modifications to its questionnaires and its staff reports to improve both the investigative process and the quality of the staff reports.

Strategic Operation No. 2: Intellectual Property-Based Import Investigations

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

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

The sixth edition of the Commission's Strategic Plan established the following general goal for this operation:

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

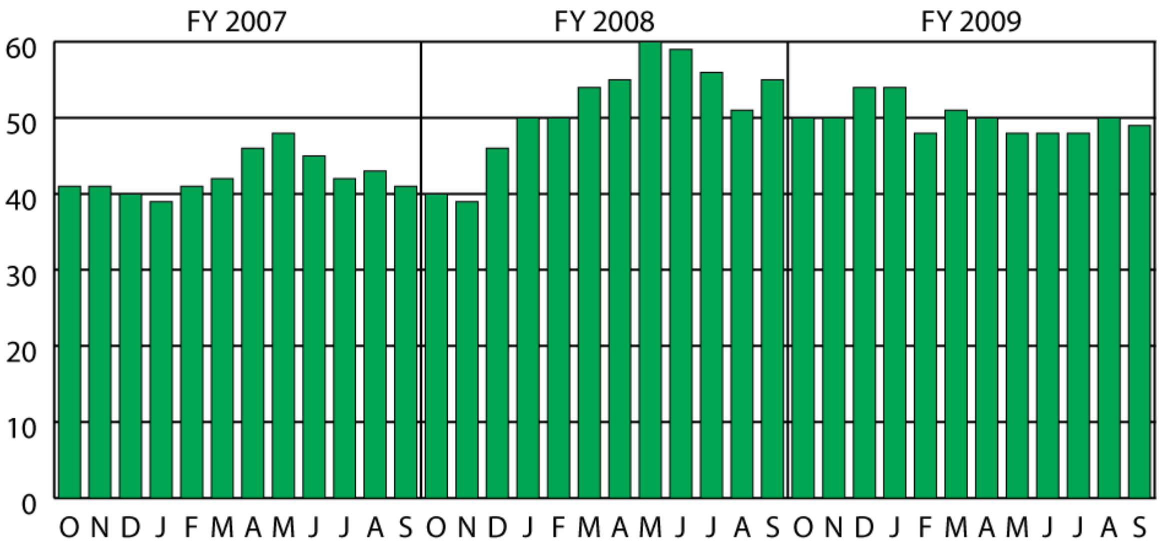
During FY 2009, the level of new section 337 complaint filings remained high, but was below the record level of new filings experienced in FY 2008, while the number of matters active during the course of the year approximated that of FY 2008. Specifically, 85 investigations and ancillary proceedings were active at the Commission during FY 2009. This number includes 29 investigations instituted based on new complaints alleging violations of the statute, as well as 7 ancillary proceedings related to prior section 337 investigations. Thus, the number of new section 337 proceedings commenced in FY 2009 was consistent with the elevated levels of new proceedings the Commission has experienced in recent years, and was nearly three times the number commenced in FY 2000. Table 2-1 and figure 2-1 show the workload trends for investigations and ancillary proceedings in FY 2009. Performance results for FY 2009 are discussed in detail below.

Table 2-1: Summary of intellectual property-based import investigations and ancillary proceedings, FY 2005–2009

Status	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Instituted	29	40	33	50	36
Completed	28	30	37	38	39

Source: OUII.

Figure 2-1: Intellectual property-based import investigations and ancillary proceedings active, by months, for October 2006 through September 2009.



Source: OUII.

FY 2009 Performance

The Commission established three strategies and corresponding annual performance goals for this Operation. Although FY 2009 was a busy year in the section 337 area, and one in which the docket was dominated by complex patent-based matters, especially in the computer and telecommunications fields, all statutory and key administrative deadlines for section 337 proceedings were met during the year. However, the average length of investigations that went to a final decision on the merits in FY 2009 increased to 17.9 months as compared to an average of 16.7 months in FY 2008, and 13.5 months during the three-year period preceding the lifting of statutory time limits by the URAA in December 1994. To help meet the demands of the increased section 337 caseload, a sixth ALJ began work in the first quarter of FY 2009. With regard to ancillary proceedings, three enforcement proceedings, which ranged in length from 13.8 to 18.3 months, concluded in FY 2009 and a consolidated advisory and enforcement proceeding settled in seven months. With regard to EDIS performance, as noted in the section of this report pertaining to Operation No. 1, in FY 2009 the Commission released a re-engineered version of EDIS which provided features designed to support the timely availability of submitted documents. These features complemented the Commission's adoption of a case management system for its docketing service which significantly improved the processing of documents, making them publicly available more quickly. As a result, timeliness and availability goals for EDIS were met in FY 2009. The goal of a 1 point improvement in the level of satisfaction of users of the ITC’s intellectual property Web pages was also met in FY 2009. With regard to the enforcement of exclusion orders, members of a Commission enforcement working group met with personnel from U.S. Customs and Border Protection (Customs) twice during FY 2008 and continued to provide Customs with scheduling information regarding section 337 proceedings. The new, substantially shorter, goal regarding the time for the issuance of seizure and forfeiture orders in response to notification letters from Customs was not met in FY 2009. The Commission acquired and utilized temporary courtroom space from a local court in FY 2009 in order to enhance its ability to schedule hearings in section 337 investigations, while it worked to secure a lease on additional permanent hearing space at the Commission's headquarters.

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

FY 2009 Performance Goals

a. 100% of actions occur on time.
b. 100% of actions occur on time.
c. 100% of actions occur on time.
d. Conclude investigations in time frames that are consistent with the URAA.
e. Average length of ancillary proceedings is:
(1) modification– 6 mos.
(2) advisory– 12 mos.
(3) enforcement– 12 mos.
(4) consolidated ancillaries– 15 mos.

Performance Indicators[a]

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

[a] The offices shown in parentheses are the staff offices responsible for measurement.

Statutory and administrative deadlines

All statutory and key administrative deadlines were met in FY 2009. Specifically:

- Deadlines for decisions on institution of investigations were met for all new complaints in FY 2009
- Deadlines for establishing target dates were met by the ALJs in all section 337 investigations instituted in FY 2009
- Deadlines for filing briefs in court were met in all appeals from Commission determinations in section 337 investigations during FY 2009
- Deadlines for issuance of final initial determinations (IDs) and target dates for Commission decisions were met for all section 337 investigations completed in FY 2009

- No TEO IDs or determinations were due in FY 2009.

In FY 2005, the Commission met all statutory and key administrative deadlines. In FY 2006, all deadlines were met with the exception of the establishment of a target date in one investigation. In FY 2007, the Commission continued to meet its deadlines and issued virtually all documents on time, but deadlines for the establishment of two target dates, as well as deadlines for the issuance of four final IDs, were missed. These missed deadlines occurred during a year when two of the Commission's ALJs retired and, as a result, a substantial number of pending investigations had to be transferred to other judges with heavy dockets. Two of the missed due dates for final IDs passed during periods when proceedings in those investigations had been stayed, and the final ID in another of these investigations was issued less than a week after the original deadline. In FY 2008, the Commission issued virtually all documents on time and met its deadlines, with the exception of the deadlines for establishment of target dates in three investigations. In two of these instances, the target date was set within a week after the deadline, and in the third instance, the target date was set within two weeks of the deadline. As noted above, the Commission met its deadlines and issued all documents on time in FY 2009.

Length of investigations

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

Table 2-2 provides summary information regarding the length of investigations during each of the last five years. In FY 2005 and FY 2006, the average time for the completion of investigations that were decided on the merits was less than 15 months. However, the average time for completion rose to 16.6 months in FY 2007, 16.7 months in FY 2008, and 17.9 months in FY 2009.

Table 2-2: Length of investigations, FY 2005–2009

Fiscal Year	Investigations Completed[a]	Completion Time (in months) Shortest	Longest	Average
2005	12 (3 instituted in 2003, 9 in 2004)	10.0	19.0	14.1
2006	12 (2 instituted in 2004, 9 in 2005, 1 in 2006)	3.5	19.0	12.0
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

Source: Office of Unfair Import Investigations.

[a] 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.

Target dates set for new investigations that commenced during FY 2009 ranged from 14 to 25 months, with an average of 15.9 months. The 25-month target date established in one investigation was set after an extended stay of the Commission's proceedings relating to pending bankruptcy proceedings and a failed settlement. Target dates set for new investigations that commenced during FY 2008 ranged from 14 to 20 months, with an average of 15.8 months. In FY 2007, the target dates set for new investigations ranged from 13 to 19 months, with an average of 15.9 months

The increase in the amount of time taken to reach a final decision on the merits in section 337 investigations in FY 2007–2009 is largely attributable to the exceptionally heavy section 337 workload in recent years. In both FY 2006 and FY 2008, the number of new section 337 maters rose substantially such that the number of new section 337 matters commenced in FY 2008 (50) was 85 percent higher than the number commenced just four years earlier, and the number of active cases in FY 2008 (88) was double the number of cases active four years ago. In FY 2009, another 36 new investigations and ancillary proceedings were commenced and a total of 85 proceedings were pending during the course of the year.

In addition to the rising caseload, the retirement of two of the Commission's four ALJs in FY 2007, as well as the absence of another ALJ for a period of months during the year, placed great strains on the Office of the ALJs in FY 2007 and 2008. Personnel changes in the office required, inter alia, the transfer of pending matters among the ALJs. As a result of considerable difficulties encountered in recruiting qualified replacements for the retiring ALJs, the Commission ended FY 2007 with only three judges. The Commission hired a fourth ALJ in early FY 2008, and a fifth ALJ was hired in the last quarter of FY 2008. Thus, during most of FY 2008, as the number of new investigations grew at an unprecedented rate, the Commission operated with four ALJs, only two of whom had more than six months of section 337 experience at the start of the year. To help meet the demands of the expanded section 337 caseload, the Commission appointed a Chief ALJ in July 2008 and hired a sixth ALJ, who began work in the first quarter of FY 2009. Thus, two of the Commission's six ALJs were new to the section 337 practice area this year.

Also, as the number of investigations and size of the Commission's ALJ corps has grown in the last several years, and the filing of multiple section 337 complaints has often occurred relatively close in time, the ALJs have increasingly encountered courtroom scheduling difficulties when setting dates for evidentiary hearings and conferences. To alleviate these significant scheduling problems and allow more hearings to be conducted by the ALJs and the Commission at or about the same time, the Commission arranged for the use of additional courtroom space, on a temporary basis, at the U.S. District Court for the District of Columbia in 2009. During the year, the Commission also worked to secure a lease on additional space at the Commission's headquarters. That lease has now been signed, and during FY 2010 the Commission expects to take possession of an additional floor and begin renovations for new conference and hearing rooms. In this regard, the Commission has added a fourth performance goal for FY 2010 and FY 2011 directed toward the improvement of the Commission's physical and information infrastructure in order to meet the demand and requirements for expeditious adjudication of complex intellectual property disputes.

Also, in an effort to address the demands of the increased caseload, during FY 2009 the Commission established a pilot voluntary mediation program for section 337 investigations. The pilot program was designed to facilitate settlement of a greater number of investigations at a relatively early stage in the proceedings and assist the Commission in evaluating the possible implementation of a permanent mediation program. A roster of well-qualified mediators was selected and all of the mechanisms to conduct mediations were put in place in FY 2009. Several cases have been identified for review for suitability for mediation and the Commission is hopeful that some cases will enter the program in FY 2010.

Length of ancillary proceedings

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

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

The Commission concluded two enforcement proceedings in FY 2005. One was completed nine months after institution, i.e., three months before the performance goal set for this type of proceeding. The other enforcement proceeding was concluded in 27 months. That proceeding was complicated by the litigious nature of the parties and the need to suspend the proceeding for more than three months due to an epidemic of severe acute respiratory syndrome that was occurring in areas of China where discovery had to be completed.

The Commission concluded two consolidated enforcement and advisory opinion proceedings in FY 2006. One such proceeding was completed in fewer than ten months, considerably ahead of the 15-month goal set for concluding this type of proceeding. The other consolidated proceeding was terminated on the basis of a settlement agreement five months after it was instituted.

In FY 2007, the Commission concluded an enforcement proceeding based on a settlement agreement approximately five months after it was commenced.

During FY 2008, the Commission concluded one advisory opinion proceeding in 1.8 months. Another advisory opinion proceeding was completed after 3.8 months.

In FY 2009, the Commission concluded one enforcement proceeding and one consolidated advisory and enforcement proceeding based on settlement agreements. The enforcement proceeding was completed in 18.3 months. This proceeding was complicated by a reversal and remand of the Commission's decision to enter the exclusion order in the underlying investigation, which was received from the U.S. Court of Appeals for the Federal Circuit in early FY 2009. Soon after the remand, the parties became engaged in lengthy settlement negotiations. The consolidated advisory and enforcement proceeding was completed in 7 months, well within the Commission's goal of 15 months for completion of consolidated proceedings. Two enforcement proceedings originating from a single investigation were consolidated in FY 2008 and completed in FY 2009. They were concluded in 15.5 and 13.8 months, respectively. The consolidation was responsible, in part, for exceeding the 12-month goal for the first enforcement proceeding. Both proceedings were extended beyond 12 months because of the large penalties recommended by the ALJ, which necessitated careful review by the Commission. Three enforcement proceedings were instituted in FY 2009 and remain pending.

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

FY 2009 Performance Goals

a. (1) Semiannual reviews and revisions of Web site completed.
   (2) 1 point improvement over FY 2008 level.
b. (1) 75% of documents filed are made available on EDIS within 24 hours.
   (2) 85% of documents filed are made available on EDIS within 48 hours.
   (3) Working group meets quarterly to consider and report on issues related to electronic filing and maintenance of records on EDIS.
   (4) 99.5 % availability rate for EDIS

Performance Indicators[a]

a. Review of Web site and revision of content as appropriate (OUII/GC); level of satisfaction reported by users of the ITC intellectual property infringement Web pages (ITS).
b. Prompt entry of documents into EDIS after filing, and improvements adopted (ITS).

[a] The offices shown in parentheses are the staff offices responsible for measurement.

Review of Web site

During the past five years, the Commission has conducted regular reviews of its Web site and has added substantially to its section 337 resources Web pages. Enhancements include regular updates to the section 337 Investigational History Database and revisions to the section 337 Frequently Asked Questions pamphlet. Also, a redesign of the Commission's Web site was completed during FY 2005 to improve usability, navigation, and search capabilities. The section 337 page was substantially overhauled as part of this effort, and links to the Intellectual Property Rights Branch of Customs and the Commission's section 337-related notices were added. A new redesign of the Commission's Web site was begun in FY 2008 and deployed in FY 2009 with the goal of making significant improvements in navigation and searchability.

During FY 2007, the Commission created and posted on its Web site "Guidelines for Filing Prosecution Histories and Technical References on DVD/CD Media" to make it easier for the public to file lengthy prosecution histories, which are now being supplied on disk by the U.S. Patent and Trademark Office (PTO), and other lengthy patent-related materials that are required to be submitted with section 337 complaints. The listing of *Federal Register* notices in current section 337 investigations was also reformatted to make it easier for the public to search and locate such notices.

The section 337 Investigational History database was regularly updated and supplemented in FY 2008 and FY 2009. A link to the amended procedural rules for section 337 proceedings was added to the section 337 Web pages in FY 2008, and an updated version of the popular "Section 337 Frequently Asked Questions" pamphlet was posted on the Web site in FY 2009. Additional enhancements were made to the Web pages in FY 2009 as part of the broader redesign of the Commission's Web site, including the addition of a link to statistical information often requested by members of the public.

During FY 2008, the Commission measured visitors' level of satisfaction with its section 337 Web pages. The Operation No. 2 pages of the Web site saw a drop in customer satisfaction scores to 53.5 from the satisfaction scores obtained in FY 2006 and 2007, which did not meet the performance goal of a 1 point improvement in the score. But usage of the Operation No. 2 portion of the Web site went up by roughly 9,000 visits or about 14 percent from FY 2007 to FY 2008. The Commission sought to improve upon its FY 2008 satisfaction measure, relative to other government agencies, by undertaking several actions. These included beginning a redesign of the entire Commission Web site to improve the look and feel, navigability, and searchability of the Web site, as well as a continuation of the effort to re-engineer EDIS with planned deployment by mid FY 2009.

During FY 2009, the agency continued to measure visitors' level of satisfaction with the Web pages. The result of this effort yielded a satisfaction score of 56 for Operation No. 2 pages of the Web site, which is a 2.5 point increase from the satisfaction score obtained in FY 2008. This meets the performance goal of a 1 point improvement in the score. This improvement is attributable to two factors. One is the deployment of the re-engineered version of EDIS in March 2009, which enhanced users' ability to file and search for documents related to section 337 investigations. Two, the re-designed version of the Commission Web site was deployed in July 2009. Since deployment of the new Web site, the satisfaction score for Operation No. 2 Web pages has increased to 61, although the time period being sampled is less than 2 months. The Commission is seeking to improve upon its FY 2009 satisfaction measure by implementing several enhancements. These include a new calendar function and a comprehensive publications database. In addition, a series of enhancements to EDIS is scheduled throughout FY 2010.

Document processing and availability

Operation Nos. 1 and No. 2 contain similar performance goals relating to the Commission's handling of documents in EDIS. As noted in the earlier discussion of Operation No. 1, the Commission provides an electronic option for information exchange between the Commission and the public and real-time access to information and updates via the Internet. However, in past years, documents were not made available for real-time access on EDIS as quickly as desired. The Commission undertook implementation of staffing, procedural and programmatic changes to improve the availability of the documents while still ensuring their accuracy and security. In FY 2007, the Commission began implementing a case management paradigm for handling investigation documents to more efficiently process them and make them available to the public.

In FY 2008, the agency significantly shortened the time from filing to availability of a document submitted to EDIS. The Commission completed processing of 82 percent of the documents for Operation No. 2 within 24 hours, exceeding the goal of 75 percent, and completed processing of 95 percent of the documents within 48 hours, exceeding the goal of 85 percent. By comparison, in FY 2007, 51 percent of documents were made available within 24 hours and 78 percent were made available within 48 hours. Thus, there was a 31 percent improvement in FY 2008 in the number of documents processed within 24 hours as compared to FY 2007 and a 17 percent improvement in the number of documents processed within 48 hours. In FY 2006, 44 percent of documents in Operation No. 2 were made available on EDIS within 24 hours, and 74 percent of such documents were made available within 48 hours.

In FY 2009, the Commission took a major step in the effort to improve the timing of document availability with the deployment of EDIS 3.0. This re-engineered version of EDIS introduced numerous programmatic features designed to support the case management paradigm and also improved reliability, scalability and security by running on new hardware and up-to-date versions of operating system and support software. With these changes, the Commission improved on its processing time for documents by making available 89 percent of documents within 24 hours and 95 percent of documents within 48 hours. These numbers included an anomalously low percentage for the month of June when a fairly large number of documents were re-processed to ensure data integrity. Regardless, the overall annual performance metrics easily met the performance goals of 75 percent of documents available on EDIS within 24 hours and 85 percent available within 48 hours. Further efficiency in processing is expected as a series of enhancements are deployed to EDIS including introduction of bar code scanners at the docket desk and more granular reporting for tracking documents as they move through the validation process. EDIS also met its availability performance goal by maintaining an uptime of 99.98 percent, exceeding the goal of 99.5 percent. This was a new metric added for 2009 to encompass the characteristic of EDIS 3.0 being a more reliable and stable system and, thus, providing more reliable accessibility of documents to users.

In FY 2009, in accordance with the Performance Plan, a Commission working group met quarterly and on numerous other occasions throughout the year to discuss and provide feedback related to the deployment of EDIS 3.0. In addition, over the past year members of the working group provided significant support for user acceptance testing of this version of EDIS prior to its deployment in March 2009.

Strategy 3: Actively facilitate enforcement of exclusion orders

FY 2009 Performance Goals

a. Issue seizure and forfeiture orders approximately 60 days after receipt of notification letters from Customs.
b. (1) Enforcement working group meets at least semiannually to discuss remedy and enforcement–related issues.
(2) Scheduling information regarding section 337 proceedings is provided to Customs on a quarterly basis.
(3) OGC and OUII representatives meet with IPR Branch of Customs semi-annually to discuss enforcement-related issues.

Performance Indicators[a]

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

[a] The offices shown in parentheses are the staff offices responsible for measurement.

Issuance of seizure and forfeiture orders

In FY 2001 the Commission established the goal of issuing seizure and forfeiture orders no more than 30 days after the end of the Customs waiting period. At that time there was a 90-day waiting period during which importers could protest a denial of entry letter, and the Commission sought to avoid the issuance of seizure and forfeiture orders during this period. In FY 2002, new procedures were instituted so that seizure and forfeiture orders would be issued at quarterly intervals, viz., on or about December 1, March 1, June 1, and September 1. It was believed that this new procedure, by adding structure to the process, would reduce the average time for issuance of seizure and forfeiture orders. In 2004, Congress amended the Customs statute to allow importers a 180-day period for filing a protest. In FY 2009, the Commission decided to revise the performance goal regarding issuance of seizure and forfeiture orders because postponement of Commission action until the conclusion of a 180-day waiting period allowed for an unduly long period before issuance of seizure and forfeiture orders, especially since protests were rare. Thus, the Commission revised its goal for issuance of seizure and forfeiture orders to 60 days after its receipt of denial letters from Customs. In the event that an importer filed a protest of the denial within the 180-day statutory period, the Commission could respond by rescinding the seizure and forfeiture order.

During FY 2005, the Commission received thousands of notification letters from Customs concerning the *Sildenafil* investigation and importations by individual consumers. In view of Customs's decision to return the subject infringing merchandise to the foreign exporters, rather than to detain the goods, the Commission exercised its discretion and did not issue seizure and forfeiture orders to individual consumers. The Commission also received five notification letters involving other investigations, which each resulted in the issuance of a seizure and forfeiture order. Four of these orders were issued significantly ahead of the performance goal. One order was issued well after the 90-day period for filing a protest had expired. However, in this instance, the notification letter from Customs was not received by the Commission until 130 days after it was issued by Customs.

In FY 2006, the Commission again received thousands of notification letters concerning the attempted importation of sildenafil by individual consumers, and again exercised its discretion and did not issue seizure and forfeiture orders. The Commission also received three notification letters from Customs concerning one other investigation. A seizure and forfeiture order was issued in connection with the first of these letters in accordance with the goal for issuance of such orders. The other two letters were received much later in the fiscal year, and remained pending at year end. In addition, the appeals from Customs' denial of the protest that was filed in 2004 were concluded in February 2006. By the time the appeals were concluded, the importer was no longer in business. Accordingly, the Commission exercised its discretion and did not issue a seizure and forfeiture order to this importer.

During FY 2007, one seizure and forfeiture order was sent out eight days after the time had run for the filing of a protest with Customs, well within the goal for issuance of orders. Five seizure and forfeiture orders were issued in FY 2007 in connection with one other investigation. Two of these orders were issued in accordance with the goal; two were issued slightly outside that time frame (six days and eight days later, respectively); and one was issued 56 days after the period of time for filing a protest had run. As in FY 2005 and FY 2006, the Commission received thousands of notification letters concerning sildenafil and exercised its discretion and did not issue orders to these consumers.

In FY 2008, the Commission received a total of 27 notification letters from Customs relating to exclusion orders issued in five investigations. The Commission issued seizure and forfeiture orders in response to all but one of these denial letters in advance of the performance goal. The remaining seizure and forfeiture order was issued 26 days after receipt of the denial letter. Also, in the *Sildenafil* investigation, the Commission issued one seizure and forfeiture letter within the performance goal to a commercial importer, but, as in prior years, the Commission exercised its discretion not to issue seizure and forfeiture orders in response to thousands of notification letters from Customs concerning importations for individual consumers.

In FY 2009, the Commission began transitioning to a new goal regarding the time for the issuance of seizure and forfeiture orders so that such orders would be issued closer to the date of receipt of notification letters from Customs. While the previously established goal for issuance of seizure and forfeiture order was exceeded in every instance in FY 2009, the new, substantially shorter, goal was not met. In FY 2009, the Commission received seven notification letters from Customs involving three importers in one investigation. The Commission issued one seizure and forfeiture order to one importer 21 days after the goal; one seizure and forfeiture order was issued 5 days after the goal and one seizure and forfeiture order in this investigation remains pending at the end of the fiscal year. In each of three other investigations, the Commission received one denial letter and issued the corresponding seizure and forfeiture orders 12, 15, and 19 days, respectively, after the performance goal. Customs sent 51 denial letters to individual consumers in one investigation, and the Commission issued seizure and forfeiture orders to each of these consumers 11 days after its performance goal. The Commission again received thousands of notification letters on sildenafil and again exercised its discretion not to issue orders in view of Customs' decision to return the infringing goods to the foreign exporter rather than to detain the goods. The Commission received one denial letter in one other investigation near the end of the fiscal year and issuance of the corresponding seizure and forfeiture order was pending at the end of fiscal year 2009. Although the new shortened performance goal for the issuance of seizure and forfeiture orders was not met this year, the Commission is working toward achievement of this goal in FY 2010.

Communications regarding enforcement of remedial orders

In FY 2004 and FY 2005, a working group met semiannually to consider issues regarding section 337 remedies, including the enforcement of exclusion orders. The working group developed a survey during FY 2004 regarding the effectiveness of outstanding exclusion orders issued by the Commission and enforced by Customs after a finding of violation of section 337. During FY 2005, the survey was finalized, published for public comment, approved by OMB, and sent to the named complainant or the current intellectual property owner in 52 of the 57 investigations for which an exclusion order was then in place.

In total, 30 entities responded to the survey. The responding firms indicated that infringing goods covered by 12 outstanding exclusion orders were no longer being imported into the United States. Two additional firms reported (in response to another survey question) that imports of covered infringing goods had "effectively stopped" after entry of the exclusion orders they obtained. Of the 27 firms that responded to questions regarding the effect of continuing importations of covered goods on their sales, 11 reported that covered imports had little or no negative effect on their own sales since entry of the exclusion order, and another six reported that covered imports continued to affect their sales to "some" extent, but not to a substantial degree. Only two of these firms reported that covered imports continued to affect their sales to a "substantial" extent after entry of the order. More than three-quarters of firms that provided information to Customs regarding imports of covered goods reported that they were "satisfied" or "very satisfied" with Customs' response to the information. During FY 2007, the enforcement working group implemented recommendations that were made in view of the survey results.

In accordance with the performance goals, in FY 2007 and FY 2008 the enforcement working group met to discuss enforcement-related matters. In both years, members of this working group also met semiannually with members of the IPR Branch at Customs to discuss issues pertaining to the enforcement of exclusion orders. To assist Customs in planning for upcoming exclusion orders, the Office of Unfair Import Investigations (OUII) continued to provide the IPR Branch with quarterly scheduling information regarding section 337 investigations.

In FY 2009, the enforcement working group again met on several occasions to discuss enforcement-related matters. Although contacts with Customs were complicated this year by personnel changes in the IPR Branch at Customs, members of the Commission's working group organized two meetings with the IPR unit. Three scheduling reports regarding section 337 investigations were also provided to the IPR unit to supplement the information on the Commission's Web site and assist Customs in planning for upcoming exclusion orders. Additionally, in response to a request from Customs, the enforcement working group worked with other offices at the Commission to establish a mechanism for faster transmission of certain materials relating to exclusion orders to the IPR unit, which was put in place at the end of FY 2009. In FY 2010, the working group plans to conduct another exclusion order survey regarding the effectiveness of outstanding exclusion orders, similar to the survey it conducted in FY 2005.

Strategic Operation No. 3: Industry and Economic Analysis

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

- *Continually enhance and improve the program of industry and economic analysis that provides the legislative and executive branches, and public, with timely research products that are widely recognized for their contribution to sound and informed trade policy formulation.*

Workload trends of the Commission's statutory industry and economic analysis investigations during FY 2005–2009 are displayed in table 3-1 and figure 3-1. Table 3-1 indicates that the number of investigations instituted during FY 2008 and FY 2009 were somewhat lower than in previous years. The falloff may be explained by the change in administration and congressional focus on health care and the economy rather than trade. Performance results are discussed in detail below.

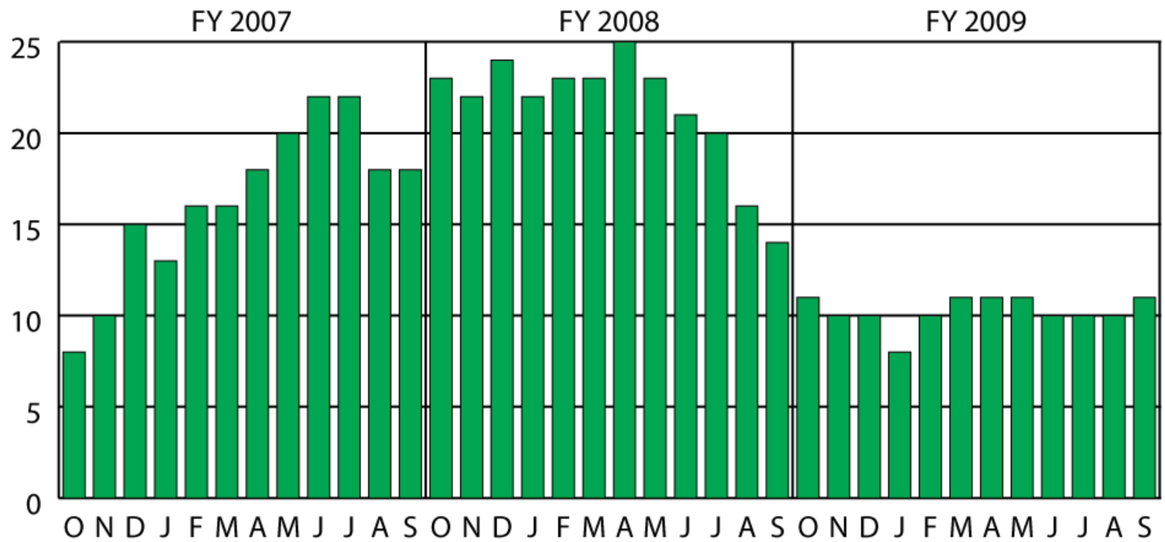
Table 3-1: Summary of industry and economic analysis program investigations, FY 2005–2009[a]

Status[b]	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Instituted	17	12	22	10	9
Active	36	26	33	30	22
Completed	21	14	14	14	10

Source: OP and EC.

[a] Includes investigations conducted under section 332 of the Tariff Act of 1930, sections 131 and 163(c) of the Trade Act of 1974, and sections 2104 and 2111 of the Trade Act of 2002.
[b] The data presented for instituted investigations reflect those which were newly instituted in the respective fiscal years. Active investigations refer to all ongoing studies, including the recurring report series. For FY 2008, these active investigations include two China-related investigations that were later terminated. Completed investigations do not include those that are part of an ongoing series (i.e., recurring).

Figure 3-1: Industry and economic analysis investigations active, by months, for October 2006 through September 2009[a].



Source: OP and EC.

[a] Investigations are active as of the first of each month and include recurring investigations.

FY 2009 Performance

To meet the general goal for Operation No. 3, the Commission developed three strategies and established 13 annual performance goals. The Commission met or exceeded 9 of its 13 performance goals for the Industry and Economic Analysis program. In FY 2009, the Commission sought to improve and develop efficient and effective research methods. Four FY 2009 performance goals relate to the first strategy. The Commission met two of these four goals.

The Commission did not meet its goal to improve the utility of its reports by 2 percent from the FY 2008 baseline. The Commission did meet its goal to deliver 100 percent of its reports on time. The goal of a 1 point improvement (from FY 2008) in satisfaction reported by users of the Industry and Economic Analysis Web pages was not met. The Commission's goal of having two requests that involve new areas or types of analysis was met.

For the second strategy, the Commission sought to identify emerging areas and issues and develop staff expertise. There were eight goals relating to this strategy. The Commission met seven of these eight goals.

In FY 2009, the goal to have more than 60 research initiatives was met. The Commission met its goal of increased use of the Web site to facilitate public involvement in studies and to disseminate information. The goal of continuing to implement procedures to validate general equilibrium models used by the Commission to improve model performance was met. The goal of expanding ongoing nontariff measure (NTM) data and analysis was met. The goal of completing work on the analysis of factors faced by U.S.

industries that affect their international competitiveness or impact long term sectoral investment flows was met. The goal of expanding efforts in developing new tools and databases on services and foreign direct investment was met. The Commission did not meet its goal of completing the U.S. Applied General Equilibrium (USAGE) investment add-on module. The Commission met the goal of semiannually reviewing and, as appropriate, revising Operation 3 Web pages.

For the third strategy, the Commission set out to develop standardized procedures to secure timely, constructive, and expert reviews of a sample of our products by appropriate external reviewers. This goal was not fully met during FY 2009.

Strategy 1: Continually improve and develop efficient and effective research methods

FY 2009 Performance Goals

a. 2% improvement over FY 2008 baseline on requestors categorizing delivered statutory reports as useful
b. 100% of reports on time
c. 2 point improvement over FY 2008 baseline level.
d. Two requests that involve new areas or types of analysis.

Performance Indicators[a]

a. Public statutory reports are mentioned as useful by customers such as USTR and Congress (EC).
b. Section 332 reports to requestors on time (OP)
c. Level of satisfaction reported by users of ITC Industry and Economic Analysis Web pages. (ITS/EC)
d. Customers request new types of analysis or new subject areas (OP).

[a] The offices shown in parentheses are the staff offices responsible for measurement.

During FY 2009, the Commission sought to continually improve and develop efficient and effective research methods. The Commission met two out of four goals relating to this strategy.

Client Briefings and Timeliness of Reports

In FY 2009, the Commission sought to secure feedback from requestors that characterized delivered reports as useful. To receive feedback, agency staff conducted briefings for requestors. The Commission did not meet its goal for FY 2009 to improve by 2 percent from FY 2008 (81.8 percent). While the Commission offered briefings on each of the 10 investigations completed this fiscal year, briefings were requested on 6 out of possible 10 reports. During these briefings, staff answered questions and received feedback on the investigations and provided insights that will help improve future studies and processes. Correspondingly, 60 percent of reports (all of those briefed on) were cited by requestors as useful. For the remaining four reports, no feedback was received. The Commission issued all section 332 and other industry and economic analysis reports to requesters on time or earlier: 21 reports in FY 2005, 14 reports in FY 2006, FY 2007, and FY 2008, and 10 reports in FY 2009. Hence the Commission met the goal of delivering 100 percent of its reports on time.

Industry and Economic Analysis Web Pages

In FY 2009, the Commission continued using the Foresee Government Satisfaction Index to measure user satisfaction levels with all of its Web pages, including the industry and economic analysis Web pages.

The Web pages' overall customer satisfaction score was 61 in FY 2009 (table 3-2), a level four points lower than that of FY 2008. This score falls six points short of the Commission's goal of increasing its overall customer satisfaction by two points. However, that level is higher than the score for the overall Commission site, which was 60. The government-wide satisfaction score for was 73 for the same period.

In addition to providing detailed information for overall satisfaction, results from the Foresee Index distinguished between two broad customer categories: those users who downloaded a report and those who did not (table 3-2). While the overall satisfaction level was 61, respondents who downloaded a report for academic research rated the site higher (68) than those who downloaded a report for business use (62). Those who reported using the site for preparation for trade negotiations (73) rated highest overall while those who downloaded it for use in trade litigation rated it lowest overall (31). Users who never downloaded a report rated the site 57 while those who downloaded a report for reasons other than those listed above rated the site at 66. These results suggest that many of the agency's key customers (those who download and use our reports for business, trade negotiations and academic research) are more satisfied with the industry and economic analysis Web pages than those who have never downloaded a report. Hence, familiarity with the Web site seems to be correlated with higher satisfaction.

Table 3-2: User survey results, industry and economic analysis Web pages, FY 2009

	Types of users:						
		Downloaded a report:					
	Never downloaded a report	Used for business	Used for academic research	Other	Used for trade negotiation	Used in preparation for trade litigation	Overall users
No. of Respondents	107	44	39	11	6	3	210
Share of total	51%	21%	19%	5%	3%	1%	
Searchability Scores:							
Content	72	76	75	79	86	76	74
Functionality	63	70	70	73	81	65	67
Look and Feel	61	62	67	69	77	29	63
Navigation	55	60	66	62	73	31	59
Search	60	61	66	61	63	24	61
Site Performance	73	72	77	82	82	41	74
Overall Satisfaction	57	62	68	66	73	31	61
Future behaviors:							
Likelihood to return	68	78	83	78	83	59	74
Recommend	65	74	73	74	81	59	69
Primary Resource	60	70	78	73	83	41	67

Source: Foresee Results, Inc., ITC Satisfaction Insight Reports, October 2009.

Moreover, overall scores for content (74), site performance (74), likelihood to return (74), primary resource (67), functionality (67), recommend (69), and look and feel (63) were all higher than the overall satisfaction level. These numbers also followed a pattern similar to the average satisfaction level associated with various types of users. The lowest overall score was for navigation (59) followed by search (61). The Commission will continue to work on improving scores, particularly those related to look and feel, navigation and search. [4]

The new Web site was rolled out on July 20, 2009. Sufficient data reflecting the new Web site were not available at the time of this report. The Commission will continue to draw on the Foresee survey results to target improvements in the industry and economic analysis Web pages.

Information Management and Analytical Enhancements

The Commission continues to take steps to enhance information management and analytical methods. The Commission met its goal of increasing the use of the Web site to

[4] With respect to FY 2009, there were no improvements in any factor's score since FY 2008; all of the scores were lower in FY 2009 than in FY 2008.

facilitate public involvement in studies and to disseminate information. In FY 2009, the Commission made substantial revisions to the Industry and Economic Analysis section of its Web site. The Commission created a series of new pages designed to draw attention to Operation No. 3 publications and make them more accessible. For example, the Commission Publications section has a new page that highlights the most recent publications and includes abstracts. In addition, that page is available by topic and year, instead of just by year, as it was in the past. Staff publications, such as Office of Industries (IND) and Office of Economics (EC) working papers and summaries, have been consolidated into one page instead of a series of differentiated categories. Furthermore, there is a new "Executive Briefings on Trade" section of short pieces that the Commission has distributed externally.

Number of customer requests that involve new areas or types of analysis[5]

The Commission met its goal of conducting two new areas or types of analysis. Two efforts of particular interest involved the research conducted for the *India: Effects on Tariffs and Nontariff Measures on U.S. Agricultural Exports* and the *Property and Casualty Insurance Services* studies.

For the investigation regarding India's agricultural sector, the Commission examined various factors currently driving Indian demand for agricultural and food products. In addition, Commission staff conducted simulations performed with a partial equilibrium-general equilibrium framework. Staff linked a partial equilibrium (PE) component model for food and agricultural trade between the United States and India at highly disaggregated level with a general equilibrium (GE) component model. This framework provided a new window into understanding the details of India agricultural trade.[6]

Furthermore, staff was able to use nontariff measures for India that were newly quantified.

For the *Property and Casualty Insurance Services* study, the Commission assessed the U.S. labor employment effects of barriers to trade in foreign property and casualty insurance markets. The Commission found that these barriers depress U.S. insurance industry employment by less than 1 percent. The Commission estimated the magnitude of regulatory and foreign trade barriers on U.S. sales of both cross border and foreign affiliate sales using a gravity model. Commission estimates of barriers were used in a partial equilibrium model to simulate U.S. employment effects. This work is the only one of its kind that specifically estimates U.S. employment effects of barriers in foreign insurance markets.

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[5] This measure includes all formally requested industry and economic analysis investigations under the Tariff Act of 1930, the Trade Act of 1974, and the Trade Act of 2002.

[6] The advantage of linking a PE model to a GE model is twofold: first, the PE model accounts for differences in product characteristics and bilateral trade policy measures at the HS6 level; second, the GE model provides for linkages with the rest of the economy, especially the rest of agriculture, both within the United States and major exporting countries, and in destination markets.

Strategy 2: Identify emerging areas and issues, and develop relevant staff expertise.

FY 2009 Performance Goals

a. More than 60 initiatives, as resources and mandatory work permit.
b. (1) Increased use of the ITC Web site (including EDIS) to facilitate public involvement in studies and to disseminate information. Special efforts in FY 2009 include working with the CIO's office to develop the ITC Web site for industry and economic analysis.
   (2) Expansion of economic modeling and analytical capabilities. Focus in FY 2009 was the:
      (a.) (i) continuation of implementation of the model validation process to monitor ITC general equilibrium model performance,
      (a.)(ii) expansion of the ongoing NTM data and analysis efforts;
      (b) analysis of factors faced by U.S. industries that affect their international competitiveness and impact long term sectoral investment flows
      (c.) expanded efforts to develop and use new tools/databases related to services
      and foreign direct investment to inform trade policy activities; and
      (d.) completion of the USAGE investment add-on module.
   (3) Semiannual Web site review and revision completed.

Performance Indicators[a]

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

[a] The office shown in parentheses is the staff office responsible for measurement.

Research Initiatives

To meet its research goals, staff broke new ground and demonstrated the Commission’s responsiveness to customer requests for greater insights into new and difficult issues in international trade that may affect the United States.

In FY 2009, the Commission sought to implement innovative analytical methods and to investigate emerging areas and issues. The Commission met eight out of nine goals relating to this strategy.

The FY 2009 Commission goal to have more than 60 research initiatives was significantly exceeded, as the Commission completed 99 initiatives. Table 3-3 shows the trend in independent staff research over the past five fiscal years. The number of initiatives and overall activity exceeded the goal by 39 initiatives. The change in total initiatives is largely explained by the inclusion of a new category, "Executive Briefings on Trade," as the number of staff presentations, conference/working papers and research notes/publications has decreased since last year. These Executive Briefings are primarily intended to assist and inform the Commissioners, although several have been publicly released. Self-initiated research is tied to Commission priorities and often serves as a testing ground for new analytical techniques.

Table 3-3: Self–initiated research, FY 2005–2009

Item	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
JICE articles	N/A	N/A	8	10	5
IER and ITTR articles	1	N/A	N/A	N/A	N/A
Industry Summaries	1	1	0	0	2
Staff research studies	0	2	1	0	1
Conference/Working papers	6	8	22	21	15
Research notes/publications	0	0	9	15	10
Formal staff presentations	38	33	45	47	26
Executive Briefings on Trade	N/A	N/A	N/A	N/A	40
Total	51	44	85	93	99

Source: OP and EC.

Note: The *Journal of International Commerce and Economics* (JICE) was launched in December 2006. Numbers for FY 2004 and FY 2005 reflect *International Economic Review* (IER) and *Industry Trade and Technology Review* (ITTR) articles. Research notes and publications were not tracked until FY 2007 (N/T). The Executive Briefings on Trade initiative was launched in FY 2009.

Such research allows the staff to serve its Commission customers' needs more expeditiously by providing the opportunity to collect data and information and to develop deeper expertise for future statutory work.

Increased use of the Web site

The Commission also met its goal of increasing the use of its Web site to facilitate public involvement in studies and to disseminate information by providing more information to the public regarding its ongoing investigations. Revisions were made to the industry and economic analysis Web pages based on Foresee Survey information indicating continued challenges with navigating and searching the Web pages. Improvement efforts will continue in the next fiscal year.

Expansion of modeling and analytical capabilities

The Commission met its goal to expand economic modeling and analytical capabilities. The Commission made significant progress in its model validation project, with contractors from Monash University implementing the model validation process designed to improve the Commission's USAGE model's projection capabilities. This work has improved the model's ability to generate historical comparisons and to extract important trends for over 500 sectors of the U.S. economy. Implementation of this process generates insights into ways agency staff can improve policy analysis.

The Commission met its goal to expand the ongoing NTM data and analysis efforts. The project focus has been primarily on NTMs in the agricultural, manufacturing, and services sectors. One of the primary goals is to have this NTM research inform work on statutory investigations. In trade facilitation, staff conducted research on export costs for products from landlocked sub-Saharan countries and the effect of cargo security measures on trade costs. Other research focused on disentangling quality differences, pricing-to-market, and NTM effects from cross-country price comparisons. Another large effort includes updating the global NTM database (the CoRe-NTM Database) released in October 2009. Finally, project team members continue to participate in regular meetings hosted by the United Nations Conference on Trade and Development, through the Multi-Agency Support Team (MAST), to find ways to improve NTM data collection and classification. In collaboration with the MAST, extensive work was conducted developing an NTM Network Wiki-page, which is now in the public domain and contains links to papers and datasets related to NTMs (*http://www.i4ide.org/NTMwiki*).

The Commission met its goal to analyze factors faced by U.S. industries that affect their international competitiveness and long term sectoral investment flows through work on a number of products. For example, staff published an industry summary (*Growth in Wind Turbine Manufacturing and Trade*) that examined the effects that foreign and domestic investment are having in driving the expansion of the U.S. wind turbine industry. Another staff paper ("U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions; An Update") identified factors that currently influence the competitiveness of U.S. agricultural products in the Cuban market and provided updated estimates of the effects of lifting the restrictions on export financing terms and travel to Cuba, based on 2008 trade statistics. In the section 332 investigation *India: Effects on Tariffs and Nontariff Measures on U.S. Agricultural Exports*, the Commission examined a wide variety of factors, including government trade and agricultural policies, consumption patterns, Indian agricultural sector characteristics, direct investment by U.S. firms, and India's intellectual property regime to explain the low level of U.S. agricultural exports to the Indian market. These represent just a few examples of analytic work pursued during the period that allowed the Commission to meet this goal.

The Commission met its goal to expand and develop new tools/databases related to services and foreign direct investment. For the *Property and Casualty Insurance Services* report, staff developed a database of non-tariff measures affecting access to and competition in the insurance markets of 72 countries. Using this database, staff then developed an index which provided a numeric score for NTMs identified in each country. This index subsequently served as the trade policy variable in econometric models designed to examine the effect of NTMs on insurance industry profits and international trade in insurance services. The index was also used in a partial equilibrium model designed to estimate the impact of NTM removal on U.S. employment.

The Commission also expanded the NTM databases being developed for 11 broad services sectors: distribution, logistics, health care, audio-visual, legal, accounting, telecommunications, architecture and engineering, energy, banking, and insurance. Information for an additional 15 countries was collected and combined with existing data, more than doubling the country coverage (11 to 26). Work also progressed on a more focused database of NTMs in the retail industry that will include information for 74 countries.

The Commission did not meet its goal of completing the USAGE investment add-on module; the conversion of the USAGE database from the older standard industrial classification (SIC) to the newer North American Industry Classification System (NAICS) to improve the agency's GE data was a higher priority. The Commission has redefined sectors and commodities in the model's database using the NAICS-based input-output accounts for 1997 and 2002, permitting the database to remain consistent with national income data into the future. However, the Commission has already completed its 2010 goal of extending the USAGE dynamic data base beyond 2002. To date, staff has developed three dynamic data bases (2013; 2020; 2022); each has already been used for statutory studies, technical assistance and other research initiatives.

Web site review

The Commission met the goal of Web redesign and semiannual review of the Web site. The Commission held regular Web redesign meetings throughout the year, focusing on search and navigation issues as identified through relatively low Foresee survey scores. In FY 2009, the Commission made substantial revisions to the Industry and Economic Analysis section of its Web site to improve searchability. For example, staff publications have been consolidated into one page instead of a series of differentiated categories. Thus, the Commission exceeded its goal of a semiannual review through a more extensive review process. However, the anticipated positive impact on the Foresee scores discussed on the previous section has not yet occurred.

Strategy 3: Undertake regular independent reviews and assessments of the Industry and Economic Analysis program to identify areas for potential improvement

FY 2009 Performance Goals

Develop standardized procedures in 2009 to secure timely, constructive, and expert reviews of a sample of our products by appropriate external reviewers.

Performance Indicators[a]

Process developed and executed for the conduct of independent objective reviews and assessments; identify areas for potential improvement in the program and products by relying on external and peer review (OP).

[a] The office shown in parentheses is the staff office responsible for measurement.

Independent reviews

In the third strategy, the Commission worked toward its goal to develop standardized procedures to secure timely, constructive and expert reviews of a sample of products by appropriate external reviewers. Although the agency did not fully develop the formal procedures agency wide, it established a standard procedure for obtaining external review for the *Journal of International Commerce and Economics*. The agency also made progress in this area by securing expert external review on several products. In fact, the Commission met a 2010 goal to engage appropriate external reviewers of selected research products and securing timely, constructive and expert reviews. For example, Commission staff secured constructive feedback from two prominent international economists on the summary of U.S. trade history included in *The Economic Effects of Significant U.S. Import Restraints: Sixth Update 2009*. In addition, the staff research study *Patenting Trends and Innovation in Industrial Biotechnology* received expert feedback from the PTO and a biotechnology industry trade group. Moreover, the Commission secured expert review and feedback on the working paper "Good Regulatory Practices" from experts in the U.S. government, a private sector technology company, and staff at the Trade Directorate at the Organization for Economic Co-operation and Development and the Trade Research group at the World Bank.

Strategic Operation No. 4: Tariff and Trade Information Services

The Commission maintains an extensive repository of tariff, trade, and related data and expertise. Drawing on these resources, it provides tariff and trade information relating to U.S. international trade and competitiveness to executive branch agencies and Congress, other governmental organizations, and the public. Tariff and trade information services include the production and maintenance of the Harmonized Tariff Schedule (HTS), which entails, inter alia, the preparation of legislative reports for Congress, participation in the committees of the World Customs Organization (WCO), provision of key support to USTR in the negotiation and implementation of free trade agreements (FTAs), and other tariff-related programs. These services also include maintenance of the on-line, interactive HTS Reference Tool, the Tariff and Trade DataWeb; contribution to the development of the International Trade Data System (ITDS); maintenance of U.S. commitments under Schedule XX of the General Agreement on Tariffs and Trade/World Trade Organization; maintenance of the electronic version of the U.S. Schedule of Services Commitments under the General Agreement on Trade in Services; and preparation of the electronic database that supports U.S. submissions to the WTO Integrated Database.

The sixth edition of the Commission's Strategic Plan established the following general goal for this operation:

- *Provide effective technical expertise and advice on the implementation of trade policy and related administrative decisions; enhance the availability of high–quality and up-to-date tariff and international trade information to the executive and legislative branches, as well as to the broader trade community and the public; and increase the ability of customers to use and understand such information.*

FY 2009 Performance

The Commission established three strategies and eight corresponding annual performance goals for this Operation.

In FY 2009, the Commission continued to make significant progress in improving the utility and dissemination of agency tariff and trade information services, meeting or exceeding most of its goals. Specific results are discussed below.

In addition, Commission staff continued to lead the U.S. Delegation to the Harmonized System (HS) Review Sub-Committee and to participate in the WCO's HS Committee and Scientific Sub-Committee. All these activities have contributed to worldwide recognition of the Commission as a significant independent source of tariff and trade information and expertise. In this connection, the Commission assisted the Department of Justice in preparing and filing two substantial pleadings in litigation arising from the Commission's

Investigation No. 1205-6 (Final), concerning the insertion of a new Note 1(v) to Chapter 95 of the HTS. The new Note was part of a broader Recommendation promulgated by the WCO; its implementation in the HTS was proclaimed by the President in January 2007.

The Commission also chairs the interagency Committee for Statistical Annotation of the Tariff Schedules (commonly referred to as the "484(f) Committee"). During FY 2009, the Committee met at the Commission on two occasions, addressing 29 new petitions for statistical breakouts in the HTS.

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

FY 2009 Performance Goals

a. (1) 5% increase in number of Trade DataWeb reports provided.
   (2) 5% increase in number of Tariff Database reports provided.
b. Modernization of data and tariff publication process implemented.
c. 5% increase in usage of the HTS page of the ITC Web site over previous year; semiannual reviews and revisions completed.
d. 2-point improvement over FY 2008 baseline level [concerning feedback from users of ITC tariff and trade-related Web pages].
e. 100% timely and accurate responses [to e-mail requests for tariff advice].

Performance Indicators[a]

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

[a] The offices shown in parentheses are the staff offices responsible for measurement.

The Commission established baseline statistics for use of various types of nomenclature expertise and trade information in FY 1999. During FY 2005–2009, use of the Commission's expertise and trade information greatly exceeded the established goals in most instances. The Commission also continued to make progress in the area of information management automation.

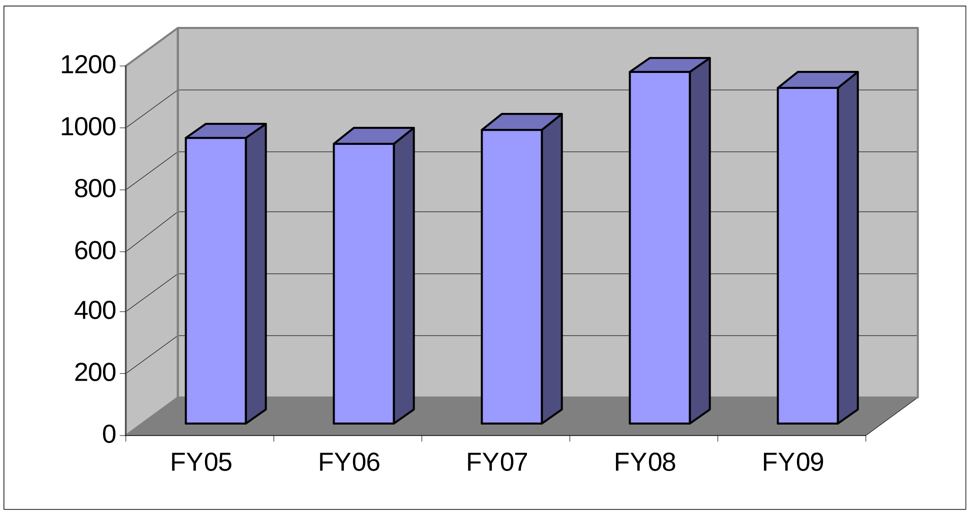
ITC Trade DataWeb

DataWeb reports downloaded by non-ITC users generally increased during FY 2005–2009 (figure 4-1). During FY 2009, however, usage declined slightly from about 1.1

million to 1.09 million downloaded reports, thus failing to meet the goal of a 5 percent increase established for that fiscal year. For FY 2010, the agency has retained the goal of 5 percent annual growth in usage and will continue its efforts to enhance the site for various types of customers. Since the inception of the DataWeb, non-government use has accounted for the bulk (about 85 percent in FY 2009) of the data reports generated by non-ITC users (figure 4-2).

Figure 4-1: DataWeb reports to non-ITC Users, FY 2005–2009

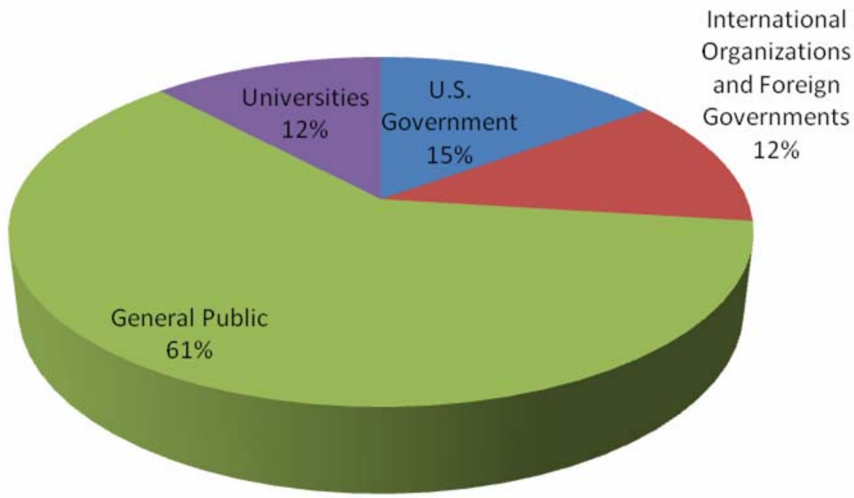
In thousands



Number of reports

Source: OCIO.

Figure 4-2: DataWeb reports to non-ITC users, FY 2005–2009



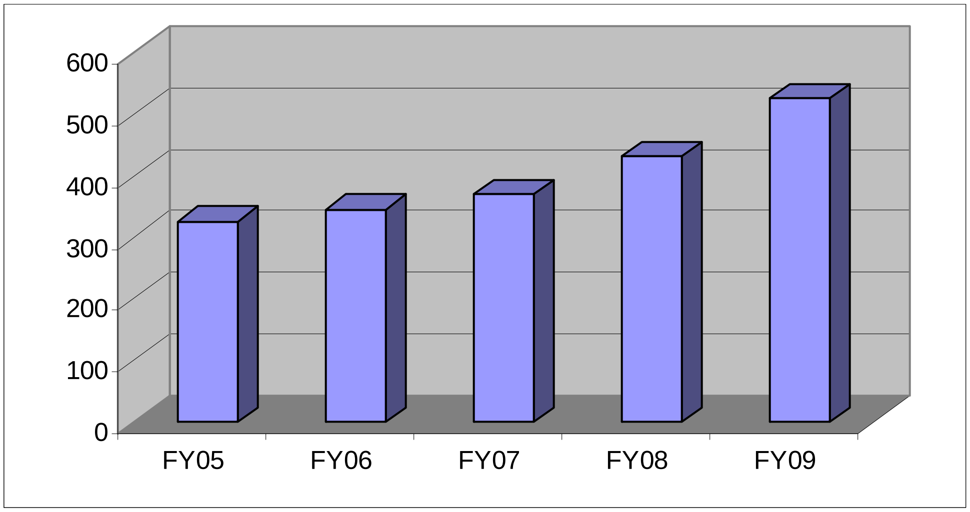
Source: OCIO.

ITC Tariff Database

As shown in figure 4-3, use of the ITC Tariff Database increased in FY 2009, rising by more than 22 percent, to an estimated 526,000 data retrievals, which far exceeded the performance goal of 5 percent. This increase is due, in large part, to the implementation of a new on-line HTS reference tool, which provides improved search capabilities and facilitates use of the HTS by professional import brokers, Customs offices and the trade community in general. Further enhancements are planned to the reference tool over time, but initial reaction by government and public users has been very positive, with about 3,000,000 visits and nearly 700,000 queries/searches since its implementation in late February 2009.

Figure 4-3: Estimated tariff data queries by non-ITC users, FY 2005-2009

In thousands



Number of reports

Source: OCIO.

Commission staff continued to work with the interagency ITDS, which is endeavoring to build a single, government-wide, on-line “window” for importing and exporting activities. The Commission’s Director of Operations continued to serve on the ITDS Board of Directors. In addition, Commission staff members are active in ITDS developmental efforts.

Improvements in information dissemination

The Commission has provided various types of information to the public via its Web site over the past several years; further improvements are continually being made. The site displays the most up-to-date texts of the HTS and is updated generally in less than two working days of implementation dates established by the President or Congress. Immediacy of access to the up-to-date, on-line Harmonized Tariff Schedule of the United States Annotated (HTSA), which is viewable, searchable, and downloadable, benefits Customs and the trade community in general.

In addition, the Commission continued to make improvements to the Tariff Database portion of the Web site by expanding a page displaying scheduled U.S. tariff rate reductions under numerous FTAs and maintaining a “Tariff Wizard” to assist the trade community in determining future rates. Current tariff rates and trade by source, import program, etc., are also linked directly to the Wizard. In addition, the Commission added a series of help screens to assist users as they navigate through the site. The Commission received positive feedback regarding these enhancements from users.

In response to Congressional requests, the Commission continued to provide an electronic spreadsheet, summarizing information provided in the Commission’s reports on miscellaneous tariff bills introduced in the 110th Congress. The spreadsheet was revised periodically and provided to congressional committee staff. Though the Commission completed and forwarded reports on 775 bills introduced in the House of Representatives in the 110th Congress, the Senate did not request any such reports, and no omnibus bill was enacted for the 110th Congress. During FY 2009, the House Ways and Means Committee reviewed the Commission reports on bills from the 110th Congress, seeking to reintroduce a package for enactment in the 111th Congress; but that action was still pending at the end of FY 2009. Similarly, the Senate did not entertain MTBs during FY 2009, but in October 2009 announced that it would try to pass an omnibus bill by the end of calendar year 2009. Meanwhile, during FY 2009 the Commission was very active in providing technical assistance to both the Senate and the House on proposed broad tariff legislation covering footwear and textile sports outerwear. Feedback from congressional staff and industry proponents in this regard was very positive.

During FY 2009 the Commission made significant changes to the ITC Web site's "Tariff Information Center" pages, which include the up-to-date HTSA, the new HTS reference tool, an HTS archive, and the ITC Tariff Database. In addition, annexes to Presidential Proclamations relating to FTAs and copies of Commission-approved miscellaneous tariff bill reports were posted on-line. For several years, the Web site has provided a "help" button, whereby users can request by e-mail specific information on tariff classification and related matters. Overall, the Commission exceeded its goal of semiannual review of its Web site, in that such review was continual throughout the fiscal year and adjustments were made as needed.

Formal evaluation of the Commission's Web site began in FY 2005. As discussed above under Operation Nos. 1, 2, and 3, the Commission received feedback from a Foresee E-Government Satisfaction Index random questionnaire, with regard to the Web site. Table 4-1 summarizes the results for the overall Web site and the HTS (tariff information) Web pages.

As indicated in table 4-1, satisfaction ratings for the overall Web site were below those for other government Web sites and the private sector. Further, the ratings for the individual elements for the HTS Web pages in FY 2009 were slightly lower than those reported for FY 2008, though overall satisfaction remained steady from the previous year. Quarterly data, however, indicated a significant increase from the first quarter of FY 2009 (overall satisfaction rating of 57) to the second and third quarters (overall satisfaction rating of 63); as noted before, this increase followed the implementation of the on-line HTS Reference Tool in February 2009. As noted in previous sections, the Commission revamped its entire Web site during FY 2009, so improved ratings are anticipated for the coming fiscal year.

During the fiscal year, HTS-related Web pages accounted for two-thirds to three-fourths (overall average 70.5 percent in FY 2009, up from 69 percent in FY 2008)) of all visits to the Commission's Web site. FY 2009 visits to the HTS-related Web pages increased approximately 9.5 percent, thus meeting the goal of increasing usage of the HTS pages by 5 percent over that in FY 2008.

Table 4-1: Satisfaction ratings by users of Web site, FY 2009

	Overall ITC Web site	HTS groups Web pages	Other government sites	Private sector
Elements:				
Content	75	75	79	76
Functionality	66	66	76	74
Look and feel	64	65	77	77
Navigation	59	59	72	73
Search	60	60	72	73
Site performance	74	75	82	79
Overall satisfaction	60	60	73	71
Future behaviors:				
Likelihood to return	76	76	83	79
Recommend	70	71	78	72
Primary resource	72	70	74	68

Source: Foresee Results, ITC Satisfaction Insight Reports.

In addition, Commission staff responded to more than 7,800 automated and other e-mail requests for tariff-related information during FY 2009. This represented a decline of almost 4 percent from the number of such requests received in FY 2008; it is likely that the newly implemented HTS reference tool helped reduce the need to follow up tariff searches by contacting the Commission by e-mail. The Commission also received several hundred such requests by telephone during FY 2009. The Commission received unsolicited email comments on about 10 percent of responses, and they were uniformly positive; similarly, telephone callers were consistently satisfied with the tariff information and/or appropriate referrals to Customs provided by Commission staff. The Commission met its goal in providing consistently timely and accurate responses to such requests; for difficult or unclear requests, follow-up was sometimes required. The benefits of this activity are manifold. It not only enhances and reinforces the working technical and tariff knowledge of Commission staff, but also serves to direct individual requests, as appropriate, to the proper Customs authority, thereby avoiding undue confusion for the requestors. Further, it has fostered frequent contact between Commission staff and the Customs National Import Specialists.

Although the Commission made considerable progress on its development of the HTS reference tool and HTSA conversion, the Commission did not fully meet its goal to implement the new publication process. During FY 2009, the Commission continued to develop software to convert the HTSA from a strict word-processing format to an XML format. This work is aimed at facilitating the presentation of the HTS in database format, which, in turn, would benefit Customs in updating its automated files. It would also enhance the Commission's ability to develop more interactive Web pages for disseminating tariff information. At present, tabular tariff data, including article descriptions, duty rates, etc., have been converted to XML format, but legal notes and appendices are still in word-processing format, though the ultimate goal is eventually to convert the entire system to XML and prepare the HTS publication from that system.

Strategy 2: Provide timely, effective, and responsive nomenclature and related technical services to customers

FY 2009 Performance Goal

95% positive results.

Performance Indicator[a]

Results of product feedback assessments (TATA).

[a] The office shown in parentheses is the staff office responsible for measurement.

During FY 2000–2004, the Commission conducted formal focus group discussions with congressional and executive branch staff, meeting at least once a year with the Senate Committee on Finance, the House Committee on Ways and Means, and USTR. In FY 2004, in lieu of focus group feedback, Commission staff prepared questionnaires for customer feedback. Numerous indices of positive customer feedback were received, including communications from USTR, congressional committees, the Department of Commerce, the Overseas Private Investment Corporation, the Department of Agriculture, the WCO, and the public. In addition, awards and commendations were conferred on staff from private sector groups, and ITC staff members were asked to chair WCO committees and special working parties. No negative comments were received.

Starting in FY 2005, the performance goal for this strategy was reformulated to read as follows: "95% positive results on product feedback assessments." Review of feedback received in FY 2009 from USTR, congressional staff, and the public shows that the Commission met its goal, as this feedback was positive. Commission staff was in almost daily contact with USTR, regarding the annual Generalized System of Preferences (GSP) review, revising rules of origin for NAFTA and other FTAs, several bilateral and regional trade agreements, and other activities. USTR feedback was consistently positive. Similarly, because of tariff legislation activity, Commission contact with congressional staff was continual throughout the fiscal year; feedback was consistently positive.

Strategy 3: Undertake regular independent reviews and assessments of the tariff and trade information program, or its components, to identify areas for potential improvement

FY 2009 Performance Goal

Recommend to the Commission major program component(s) for review.

Performance Indicator[a]

Independent, objective review identifies areas for potential improvement (TATA).

[a] The office shown in parentheses is the staff office responsible for measurement.

Commission staff expended much effort during FY 2009 to bring together and launch the on-line HTS Reference Tool on the Commission's Web site. This effort was the culmination of several years of development by these offices and CIO contractors. Although an operation version of the reference tool was placed on the Web site in late February 2009, it would have been premature to undertake a full-scale evaluation of its efficacy and usefulness to key users during FY 2009. Further, despite the very positive feedback on the reference tool, from other Government agencies (especially Customs) and the importing public, the Commission is aware that it is still a work in progress and will need to undergo further enhancements in the coming year before it is fully operational.

Strategic Operation No. 5: Trade Policy Support

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

The sixth edition of the Commission's Strategic Plan established the following general goal for this operation:

- *Contribute to the development of sound and informed U.S. international trade policy by providing efficient and effective access to Commission expertise. Since many policy decisions are made under tight time frames and in fluid circumstances, the Commission makes its expertise available through technical support and analysis for the executive branch, in various international trade fora, and directly to the legislative branch in response to inquiries from congressional Members and staff.*

FY 2009 Performance

In FY 2009, the Commission had two strategies and four corresponding annual performance goals for this Operation. Those performance goals address providing technical assistance on a wide range of issues to the Commission's customers, enhancing the mechanisms for providing trade policy support, and monitoring the satisfaction levels of the Commission's customers for products provided by this Operation.

The level of activity in this Operation is dependent on requests from USTR, the Senate Committee on Finance, and the House Committee on Ways and Means. The frequency of such requests depends on such variables as the legislative calendar, negotiating activity for FTAs, the election cycle, and economic trends, all of which can affect the level of activity by policymaking customers. Most assistance comprises quick turn-around data and information requests that are handled in less than a day, reflecting the high level of expertise embodied in Commission staff. However, the Commission also delivered several products that required in-depth work involving time commitments of several work days or even weeks.

In FY 2009, the Commission experienced mixed results with respect to meeting its performance goals for this Operation, as discussed below.

Strategy 1: Provide real-time, efficient, and effective technical analysis and support to organizations involved in trade policy formulation

FY 2009 Performance Goal

a. 85 trade policy issues supported.[a]
b. Establish baseline and definition of complex request.
c. Implement new electronic tracking system.

Performance Indicators[b]

a. Number of trade policy issues supported by ITC analysis (IND).
b. Number of complex requests from customers (IND).
c. Enhancements to program adopted based on results of tracking system (IND).

[a] Requests for support are influenced by the annual trade agenda set by the Administration as well as by congressional activity; ability to respond to all requests for support will be dependent on staffing levels and the level of other, higher priority statutory work in Operation Nos. 1, 3, and 4.

[b] The office shown in parentheses is the staff office responsible for measurement.

The first performance goal for this Operation, providing substantive assistance on 85 trade policy issues, was exceeded during FY 2009 as it has been in recent years (table 5-1). The Commission changed how it counted technical assistance requests between FY 2005 and FY 2006 (it now includes technical assistance related to litigation), so consistent data are available for only four years.

Table 5-1: Number of trade policy issues supported, FY 2006-2009

Customer	2006	2007	2008	2009
USTR	79	91	103	77
Congress	16	28	26	17
Total	95	119	129	94

Source: IND.

Technical assistance is provided primarily to assist the requestors' decision-making processes 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.

Areas of significant support, in terms of staff time, included providing support related to USTR's work on the operation of the GSP program, initiatives related to sub-Saharan Africa and African Growth and Opportunity Act (AGOA) initiatives, and analysis of rules of origin treatment and harmonization. Significant support was also provided related to WTO negotiations, panels, notifications, committees, and reviews. Technical assistance efforts for Congressional customers were focused on China's international trade and economy, the nature and impact of government policies related to beef trade, and pending free trade agreements.

Efforts to establish a definition and baseline for complex requests have led the Commission to conclude that pursuit of the second performance goal was undesirable. This initiative revealed that there is no single, best definition of what constitutes a "complex" request or response. Establishing a definition with multiple variants foreshadowed difficulty in precise application, and therefore measurement. Moreover, the utility of establishing a baseline for such requests and pursuing an increase in the number of complex requests came into question as a desirable goal in light of customer needs. When promptness of response is paramount, a simple response that provides sufficient information and precision may be more desirable than a more complex, more precise approach that consumes more work and time. When discussing requirements with customers, various options for providing the assistance are often discussed and balanced to meet the customer's priorities. The Commission is committed to maintaining the capability to provide a range of responses to meet request requirements, which will allow the agency to best serve its customers. Performance goals for FY 2010 will be revised as a result of this conclusion.

The third performance goal was met by developing an electronic tracking system to capture the nature and status of technical assistance requests. However, subsequent to implementation, use of this system has been inconsistent. During FY 2010, the Commission will examine and implement procedures intended to improve the use, viability, and value of the system.

Strategy 2: Undertake regular independent reviews and assessments of the trade policy support program, or its components, to identify areas for potential improvement

FY 2009 Performance Goal

Implement new customer outreach program and establish baselines for product satisfaction.

Performance Indicator[a]

Results of feedback from outreach efforts to customers on their needs and knowledge of Commission capabilities (IND).

[a] The office shown in parentheses is the staff office responsible for measurement.

As reflected by the breakdown of unique requests in the first performance goal, the Commission provides significantly more assistance to USTR under this Operation than to the Congressional oversight committees. This is also borne out in the amount of time spent responding to such requests: in FY 2009 hours charged to responding to USTR requests were three times the hours charged to responding to congressional requests. Anecdotal information indicates that a large part of this differential stems from differing levels of familiarity with the Commission's capabilities among the various customers. Commission staff has extensive, long-established working relationships with USTR staff, a significant number of whom are former Commission employees. It is less common for Commission personnel to move to positions on the staffs of the congressional committees and high levels of personnel turnover on those committee staffs results in less familiarity with the Commission's capabilities.

The Commission hired a new Congressional Relations Officer (CRO) at the beginning of FY 2009, who established a plan to proactively improve congressional staff understanding of Commission capabilities. The CRO has held multiple meetings with staff of the oversight committees to ensure they are aware of the wide variety of assistance the Commission can provide to support their policymaking efforts. This initiative has been especially important in light of congressional staff turnover. The CRO plans to enrich these efforts by increasing the participation of Commission experts in such briefings.

Feedback on technical assistance is primarily provided verbally and efforts to collect written feedback have proven largely unsuccessful. The feedback that has been received was uniformly positive, establishing a baseline of 100 percent. Therefore, seeking improvements in future years does not make sense. This goal has been replaced in the FY 2010 performance planning process.

Financial Section

Message from the Director of Administration

This section contains the United States International Trade Commission's financial statements for FY 2009. The independent accounting firm Castro and Company, LLC, monitored by the acting IG, issued a disclaimer on the Commission's FY 2009 financial statements. The audit team was unable to obtain sufficient evidence to support an opinion in time for this report for the reasons detailed below. The audit report and accompanying letter from the IG precede the audited statements and notes.

The majority of difficulties encountered by the Commission with respect to its financial statements directly resulted from the Commission's migration in FY 2009 to a new financial system provided under contract by the Department of the Interior's National Business Center. The new system provided inconsistent reports that required extensive revisions and troubleshooting. The Commission was unable to provide these year-end-reports to the audit team in a timely fashion, which considerably delayed the audit schedule. Additionally, the audit team requested that the Commission capitalize certain costs over multiple fiscal years, further complicating the production of necessary year-end-reports and resulting in a time-consuming restatement for prior years. The burden of migration to a new system and the lack of resources available to adequately monitor internal controls prevented timely detection of correctible errors.

The Commission received unqualified (clean) opinions for the five years preceding the FY 2009 disclaimer. The Commission is committed to providing the necessary documentation that would eventually support a clean opinion for its FY 2009 financial statement and is dedicated to correcting the issues within its financial system. The Commission expects to return to good standing in FY 2010.

Stephen A. McLaughlin
Director
Office of Administration

OFFICE OF THE INSPECTOR GENERAL

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

November 16, 2009

MEMORANDUM

TO: Shara Aranoff, Chairman

FROM: Tony Baptiste, Acting Inspector General

SUBJECT: Inspector General's Assessment of the Most Serious Management Challenges Facing the U.S. International Trade Commission (ITC)

Introduction

The *Reports Consolidation Act of 2000* (RCA) authorizes the ITC to provide financial and performance information in a more meaningful and useful format for Congress, the President, and the public, through publication of the Performance and Accountability Report (PAR). The RCA requires the Inspector General to summarize the "most serious" management and performance challenges facing the agency and to assess the agency's progress in addressing those challenges, all for inclusion in the PAR. This memorandum fulfills the Inspector's General duties under the RCA.

In order to identify and describe the most serious management challenges, as well as the agency's progress in addressing them, we have relied on data contained in the Office of the Inspector General (OIG) financial statement audit of ITC and PAR, as well as our knowledge of ITC operations. Since Congress left the determination and threshold of what constitutes a most serious challenge to the discretion of the Inspector General, we applied the following definition in preparing this statement:

Serious management challenges are mission critical areas or programs that have the potential for a perennial weakness or vulnerability that, without substantial management attention, would seriously impact agency operations or strategic goals.

This memorandum summarizes the results of the ITC's current financial statement audit, describes the Commission's (Agency) progress on last year's management challenges, and finally discusses the most serious management challenges that we have identified for this coming fiscal year (FY).

ITC Financial Statement Audit Results

In accordance with the *Accountability of Tax Dollars Act*, ITC, along with numerous other federal entities, is required to submit to an annual independent financial statement audit by the Inspector General. This year, on behalf of the OIG, an independent public accounting firm conducted the required audit of the ITC's financial statements. The OIG audit team was unable to render an opinion on the ITC's financial statements and issued a disclaimer opinion on the ITC's financial statements.

Nonetheless, several issues relating to internal control of the ITC's accounting for Property, Plant & Equipment, accounts payable and financial reporting were identified and presented to management. Furthermore, during the fieldwork of this attempted audit, information came to our attention which we conveyed to management that resulted in management restating its prior year financial statements. However, we found no evidence of intentional fraud or willful misrepresentation of financial information under the control of the ITC. Additionally, during this fiscal year, the OIG conducted a performance audit under the Federal Information Security Management Act of 2002 (FISMA).

ITC's Progress on Last Year's Management Challenges

Last year the OIG identified the following four management challenges:

1. Information Technology Security;
2. Financial Management;
3. Procurement and Contract Management; and
4. Strategic Management of Human Capital.

In Fiscal Year 2009, the Commission continued to make progress in strengthening information technology (IT) security practices. Based on the work performed for the FY 2009 FISMA audit, the OIG determined that the Commission's information security program, consisting of plans, policies, procedures, and security controls, is in place and is generally consistent with the FISMA requirements. However, due to budgetary constraints I learned that the Commission has not addressed prior year findings such as the lack of an agency-wide Continuity of Operations Program plan, contingency plans need to be updated and tested, and an alternative processing facility does not exist. As a result of this year's FISMA audit we informed management of eight areas needing further improvement in which the Commission should implement corrective actions to help further ensure that its management and operational controls comply with applicable National Institute of Standards and Technology standards and guidelines and FISMA requirements.

This year the agency supplemented the existing management team, strengthened its IT policies and procedures, and upgraded key elements of its IT infrastructure. These initiatives and responsive mitigation strategies for this year's FISMA findings will well position the agency towards meeting foreseeable challenges.

Last year’s OIG assessment of significant management challenges identified financial management as a likely management challenge for the coming fiscal year. The challenge of integrating and implementing a new financial system, Oracle Federal Financials (OFF) has proven to be an insurmountable challenge. The ITC was not able to extract accurate and timely financial information from OFF for addressing requirements of this year’s financial statement audit.

The OIG also learned that during this fiscal year the procurement and contract management module in the financial reporting system was not integrated into the Agency’s financial reporting procedures. This system limitation reduced the ITC’s ability to improve its oversight controls over its contracts. During this year’s financial statements audit the OIG and the ITC found at least two instances of significant discrepancies over vendor bills, thus highlighting the need for further improvements in this critical operational area.

Initial OIG reviews indicate opportunities exist to improve policies and procedures in the procurement and contract management area. Management has bolstered its operational policies with new hirings and formalized procedures consistent with the Federal Acquisition Regulations- which should decrease the potential for procurement and contract mismanagement.

Finally, in last year’s assessment, strategic management of human capital was identified as an additional focus area for management. Our review of the strategic human capital management plan and the ITC’s operations during this fiscal year revealed that the Agency has devoted considerable effort towards addressing the mission critical human capital needs of the Agency. However, additional reviews conducted by the Office of Personnel Management indicate the need for greater effort in this area during this coming fiscal year.

Two issues likely to challenge ITC in this coming year are: Financial Management and to a lesser extent Information Technology Security.

Most Serious Management Challenges for Fiscal Year 2010

Financial Management

This fiscal year due to the inability of the Agency to generate accurate and timely financial information the OIG audit team was unable to render an opinion on the Agency’s financial statements. Several material weaknesses[1] were identified in the internal control over financial reporting, analyses and oversight. For example, we noted errors related to incorrect accumulation of account balances, incorrect identification of general ledger accounts, and incorrect postings to the financial reporting system. The

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[1] A material weakness is a significant deficiency, or combination of significant deficiencies, that result in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control. See Government Auditing Standards: July 2007 Revision “Yellow Book” Section 5.11(b)

inability to resolve this issue will impede the Agency ability to convey its success in managing the Agency's limited budget.

Another weakness identified is that the Agency needs to improve its identification, recording and reporting of Property, Plant and Equipment. Proper recording of Agency assets will ensure that management can effectively allocate its resources to Agency missions, in compliance with laws and regulations, and with minimal potential for waste, fraud and/or mismanagement.

Finally, improvements are needed in the recording and reporting of Accounts Payable, Expenditures, and Obligations. Inaccurate assessment of Agency liabilities can subject the Agency to improper payments and vendor fraud. During our review we found several instances of incorrect charges made by suppliers of services to the Agency. Fortunately, they were resolve favorably for the Agency. We restate Financial Management as a challenge in the hope that we can spur the Agency to heighten its focus on addressing this issue during the coming year. Although we have primarily stated financial management challenges there remain several information technology security challenges facing the Agency in the coming fiscal year.

Information Technology Security

During FY 2009 the Agency made improvements in its technical security controls by strengthening patch and configuration management practices over the local area network and implementing quarterly vulnerability scans. Improvements were also made in logical access administration over contractors. However, our recent review of security over the Agency's information technology systems revealed several vulnerable areas that management is currently addressing. The ITC is subject to daily cyber attacks and we are concern that in the coming year their complexity and frequency are likely to increase. Therefore the OIG would like to reemphasize the significance of these threats to Agency's management.

Conclusion

This year the Agency migrated to a new financial management system that proved to be more complex and difficult for the Agency to absorb into its standard operation. We anticipate that the Agency will be able to correct most of the material weaknesses that we identified and generate financial statements that accurately reflect the financial condition of the Agency. Achieving this result will enable management to properly allocate resources to critical mission areas as well as safeguarding resources appropriated to the Agency for the coming fiscal year. Our goal is to monitor the Agency operations and evaluate whether the Agency has wisely used the assets granted by Congress and the taxpayers. The Office of the Inspector General looks forward to undertaking constructive reviews that might improve the operations at the US International Trade Commission.

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Independent Auditor's Report

Acting Inspector General
U.S. International Trade Commission

We were engaged to audit the accompanying balance sheet of the U.S. International Trade Commission (ITC) as of September 30, 2009, and the related statements of net cost, changes in net position, budgetary resources and the statement of custodial activity for the fiscal year then ended. These financial statements are the responsibility of ITC's management. The financial statements of ITC as of September 30, 2008, were audited by other auditors whose report, dated November 3, 2008, expressed an unqualified opinion on those statements.

As discussed in Note 16 to the financial statements, during the current fiscal year, ITC restated its fiscal year 2008 property, plant and equipment and related expenses reported on the financial statements. The predecessor auditor reported on the financial statements of the prior period before restatement of the FY 2008 financial statements. We were not engaged to audit, review or apply any procedures to the adjustments for the correction of the error described in Note 16 and, accordingly, we do not express an opinion or any other form of assurance about whether such adjustments are appropriate and have been applied properly.

Several issues relating to internal control of ITC's accounting for property, plant & equipment, accounts payable and financial reporting were identified during our work. Furthermore, ITC's management was unable to respond to requests for evidential material in a timely manner. As a result of these limitations, we were unable to obtain sufficient evidential support for the amounts presented in the balance sheet as of September 30, 2009, the related statements of net cost, changes in net position, budgetary resources, and the statement of custodial activity for the fiscal year then ended.

Because of the matters discussed in the preceding paragraph, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the balance sheet as of September 30, 2009, and the related statements of net cost, changes in net position, budgetary resources, and the statement of custodial activity for the fiscal year then ended.

The information presented in the Management's Discussion and Analysis is not a required part of ITC's financial statements, but is considered supplementary information required by U.S. generally accepted accounting principles and the Office of Management and Budget (OMB) Circular A-136, *Financial Reporting Requirements.* We were unable to apply to the information certain procedures prescribed by professional standards within the time frames established by OMB because of the limitations on the scope of our audit of the financial statements discussed above. Such information has not been subjected to auditing procedures, and accordingly, we express no opinion on it.

The information presented in the Message from the Chairman and Performance Section is presented for purposes of additional analysis and is not required as part of the financial statements. Such information has not been subjected to auditing procedures, and accordingly, we express no opinion on it.

In accordance with *Government Auditing Standards* and OMB Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements,* as amended, we have also issued our reports dated November 6, 2009, on our consideration of ITC's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, and other matters. The purpose of those reports is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. Those reports are an integral part of an audit performed in accordance with *Government Auditing Standards* and OMB Bulletin No. 07-04, as amended, and should be considered in assessing the results of our work.

Castro & Company, LLC

November 6, 2009
Alexandria, VA

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Independent Auditor's Report on Internal Control

Acting Inspector General
U.S. International Trade Commission

We were engaged to audit the financial statements of the U.S. International Trade Commission (ITC) as of and for the year ended September 30, 2009, and have issued our report thereon dated November 6, 2009. The report states that because of the matters discussed therein, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the balance sheet as of September 30, 2009, and the related statements of net cost, changes in net position, budgetary resources, and the statement of custodial activity for the fiscal year then ended.

In planning and performing our work, we considered ITC's internal control over financial reporting by obtaining an understanding of the design effectiveness of ITC's internal control, determining whether controls had been placed in operation, assessing control risk, and performing tests of ITC's controls as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, which we were ultimately not able to do, but not to express an opinion on the effectiveness of ITC's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of ITC's internal control over financial reporting. We limited our internal control testing to those controls necessary to achieve the objectives described in the Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statement,* as amended. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA), such as those controls relevant to ensuring efficient operations.

Our consideration of internal control over financial reporting was for the limited purposes described in the preceding paragraphs and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency in internal control, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with U.S. generally accepted accounting principles (GAAP) such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that result in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of the internal control over financial reporting was for the limited purpose described above and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we also consider the deficiencies described below to be material weaknesses.

MATERIAL WEAKNESSES

Improvement is Needed in ITC's Internal Controls over Financial Reporting, Analyses and Oversight

Although ITC prepared the September 30, 2009 financial statements, these statements could not be supported due to accounting issues identified during our work. A major contributing factor to the weaknesses noted is due to ITC not having formal documented financial management policies and procedures. Policies and procedures are controls that help program and financial managers achieve results and safeguard the integrity of their programs. We noted a number of the issues, discussed below, surrounding internal control that are material and significant to ITC's financial statements.

The Accountability of Tax Dollars Act of 2002 (ATDA) extends to ITC the requirement to submit to the Congress and the Director of the OMB audited financial statements. OMB Circular A-136, *Financial Reporting Requirements*, defines the form and content of financial statements to be prepared by the agency. To accomplish the objective of complying with the ATDA, the agency is required to develop a system to prepare a complete set of financial statements on a timely basis in accordance with U.S. generally accepted accounting principles. The statements are to result from an accounting system that is an integral part of an integrated financial management system containing sufficient structure, effective internal control and reliable data. Financial reporting also consists of policies and procedures related to the processing and summarizing of accounting entries, and the preparation of financial statements.

During testing of ITC's financial statements preparation, we noted that improvement is needed to ensure that ITC can accurately produce its period end financial statements and perform related analyses. The errors we noted related to incorrect accumulation of account balances, incorrect identification of general ledger accounts, and incorrect postings to the financial reporting system. As a result, management provided several versions of the September 30, 2009 trial balance, with the latest version provided on November 2, 2009. These errors occurred because of ineffective management reviews and approvals to ensure the transactions and adjustments were accurate and properly supported.

Additional challenges were encountered due to ITC's converting its core financial system at the beginning of FY 2009. As a result of the conversion, ITC management and staff were unable to:

- Generate financial data in a timely and consistent manner for review and analysis;
- Allocate sufficient time to perform a review of its financial data to ensure the data was complete and accurate throughout the fiscal year; and
- Obtain additional training in using the new system. Accordingly, additional time was needed by the current staff to process financial transactions and management reports. Furthermore, due to being unfamiliar with the system and its limitations, management was unable to generate financial data in a consistent manner from the prior year.

Given the complexities surrounding the system conversion, and ITC's limited resources allocated to financial management, ITC's FY 2009 financial operations were adversely impacted. Some data issues, account reconciliations, periodic analysis, and financial statement closing processes provided challenges in the timely development of auditable financial statements. A major objective of internal control is to ensure the integrity of the underlying accounting data supporting the financial statements. A key control is performing reconciliations of significant account balances. An adequate reconciliation provides assurances that transactions are properly processed and recorded in the accounting records in a timely manner. Management indicated that reconciliations of material financial statement line items were not performed on a routine basis.

During our review of ITC's financial statement preparation process, we identified certain issues, as summarized below, impacting ITC's ability to effectively accumulate, assemble, and analyze information to timely develop and support its financial statements on a routine and recurring basis.

- ITC did not close its fiscal year 2009 general ledger until October 30, 2009. Consequently, ITC could not generate its annual financial statements and the Performance and Accountability Report (PAR) in a timely manner. A first draft of the financial statements, which were incomplete, was provided by ITC management on November 2, 2009. In addition, as a result of not closing the general ledger in a timely manner, transactions that occurred in FY 2010 were applied to the system that impacted the FY 2009 balances. Specifically, the balances for accounts payable and expenditures were increased for each invoice processed after year end.

- OMB Circular A-136 requires agencies to submit unaudited interim financial statements within 21 days after the end of each of the first three quarters of the fiscal year to OMB. In addition, agencies are required to submit an analysis of significant variances along with the quarterly financial statements. We noted that ITC did not perform a quarterly fluctuation analysis of its financial information throughout the entire fiscal year. ITC management indicated that they were aware of the requirement that the analysis was to be submitted to OMB at the end of each quarter, but due to the conversion to the new accounting system did not have the resources to perform the analysis.

Furthermore, our review of ITC's quarterly financial statements identified inconsistencies, which required further explanation. For example, the supporting trial balance provided as of June 30, 2009 and as of September 30, 2009 did not include opening balances for several budgetary accounts. Management was unaware that the trial balance did not include beginning balances for key budgetary accounts until identified as a result of our work. Management indicated the exclusion of the accounts seems to be a system conversion issue. Accordingly, we were unable to perform a crosswalk of the June 30, 2009 quarterly financial statements. Finally, management did not correct the FY 2009 trial balance until late October 2009.

We also noted expenditures appeared higher than expected. Further review and analysis determined that ITC management improperly included the development costs of a system in expenses rather than capitalizing the costs, as required by Statement of Federal Financial Accounting Standard (SFFAS) No. 6, *Accounting for Property, Plant and Equipment*. In addition to the fiscal year 2009 financial statements being incorrect, ITC's FY 2008 balances were also incorrect, causing ITC to restate its prior year financial statements by approximately $1.7 million.

Another issue noted, specific to the June 30, 2009 unaudited financial statements, was that accounts payable reflected an abnormal debit balance. Management was not aware of the negative balance in accounts payable, as they had not performed an analysis of its financial statements. After management researched the balance, it was determined that the amount reflected in the June 30, 2009 unaudited financial statements was incorrect.

- ITC did not perform a risk assessment in accordance with OMB Circular A-123, *Management's Responsibility for Internal*. As a result, ITC did not identify any material weaknesses or significant deficiencies in the results of its internal control review. However, the results of our efforts identified three material weaknesses. OMB Bulletin 07-04, as amended, requires a comparison of the material weaknesses disclosed during the audit with those material weaknesses reported under the agency's FMFIA report that relate to the financial statements of the entity under audit and document material weaknesses disclosed by the audit that were not reported in ITC's FMFIA report.

  OMB Circular A-123 states "Management has a fundamental responsibility to develop and maintain effective internal control. Federal employees must ensure that Federal programs operate and Federal resources are used efficiently and effectively to achieve desired objectives. Programs must operate and resources must be used consistent with agency missions, in compliance with laws and regulations, and with minimal potential for waste, fraud, and mismanagement."

- As of the date of this report, ITC had not prepared a comprehensive version of its PAR. Therefore, we were unable to perform a complete review of the document to assess compliance with OMB Circular A-136. However, for the draft sections of the PAR that were provided, we noted that ITC did not adhere to the reporting requirements of OMB Circular A-136. For example, the PAR does not include a summary of financial statement audit and management assurances. In addition, management did not perform a thorough review of the PAR. We noted there was no discussion on its most relevant performance measures in the Management's Discussion & Analysis (MD&A). Section 2.6 of OMB Circular A-136 states "Within the MD&A, the agency is required to include, at a minimum, a high-level discussion of performance information. The MD&A should include highlights of the reporting entity's key performance goals and results (shortfalls and successes) for the applicable year." Finally, we noted several typographical errors and incorrect references throughout the PAR.

- ITC does not have adequate resources to perform its day-to-day financial management accounting and financial reporting in a consistent and timely manner. For example, the Chief Financial Officer position is currently being performed by the Chief Information Officer, requiring the individual to split his focus. Furthermore, the Director, Office of Finance, performs the majority of the accounting and reporting responsibilities, which prevents an adequate review and approval process of the financial reporting process. The lack of resources was aggravated by the conversion of the financial system. Finally, ITC did not have the resources with the expertise on how the new system operated. Accordingly, an understanding of the system's key processes did not exist, which impeded ITC's ability to process accounting transactions accurately and generate financial data and reports in a consistent or timely manner. These deficiencies are key factors in many of the weaknesses in financial management as described further in this report.

In an effort to assist in compiling the FY 2009 financial statements, management brought in a consultant toward the end of October. That effort provided ITC the ability to generate the financial statements; however, due to the lateness of contracting with the consultant, ITC was unable to provide a complete PAR in time to perform sufficient audit testing.

Effective internal control provides assurance that significant weaknesses in the design or operation of internal control, that could adversely affect the agency's ability to meet its objectives, would be prevented or detected in a timely manner. Based on the issues noted above, ITC management needs to strengthen its internal control surrounding financial management.

Recommendations

We recommend that ITC management perform the following:

1. Ensure that the general ledger is closed in a timely manner. Furthermore, management should not allow transactions that occur in the subsequent fiscal year to be processed until the general ledger from the preceding fiscal year is closed. This is to maintain the integrity of the balances as of September 30th.

2. Review and analyze the quarterly financial statements to identify and document any significant variances in a timely manner, as required by OMB Circular A-136.

3. A review of its internal control consistent with the requirements of OMB Circular A-123 to ensure the objectives of the FMFIA are achieved and documented.

4. Establish formal policies and procedures to ensure ITC is able to comply with applicable accounting, financial management and reporting standards and regulations. These policies and procedures should incorporate adequate segregation of duties, as well as a sufficient level of review and approval process.

5. Review its current organizational structure to ensure adequate resources are allocated to the ITC financial management. In addition, provide training to the financial staff on federal accounting and reporting requirements, as well as the accounting servicer's financial system.

Management Response

Management concurs with the finding and recommendations. ITC management is committed to improving its internal control and accordingly, will develop a corrective action plan to address the issues identified.

Improvement is Needed in ITC's Identification, Recording and Reporting of Property, Plant and Equipment

SFFAS No. 6 defines general Property, Plant & Equipment (PP&E) as "items that could be used for alternative purposes (e.g., by other Federal programs, state or local governments, or non-governmental entities) but are used by the Federal entity to produce goods or services, or to support the mission of the entity." Also, SFFAS No. 6 requires general PP&E to be reported in the basic financial statements: the balance sheet and the statement of net cost. The acquisition cost of general PP&E shall be recognized as an asset and subsequently charged to expense through depreciation.

During our testing, management was unable to provide the subsidiary property listing in a timely manner. In addition, we noted several issues surrounding the accounting for PP&E. For example:

- A new information system, which had been in the development phase for several years, was placed into service mid-FY 2009. Approximately $2.8 million of the costs associated with the system had been expensed rather than capitalized. Accordingly, the balance sheet was understated and the statement of net cost was overstated for the applicable fiscal years. In addition, approximately $2.0 million associated with the obsolete system that was replaced was not removed from the accounting records. Therefore, the balance sheet was overstated and the statement of net cost was understated.

- Reconciliations were not being performed, reviewed or approved on a consistent basis or by someone independent of performing the detail work.

- ITC does not have formal policy or procedures in place surrounding the accounting for PP&E. In addition, ITC has not established a threshold to capitalize bulk purchases or leasehold improvements. In addition, ITC was unable to provide supporting documentation for the rationale on its current capitalization policy. Finally, we noted that PP&E was not being depreciated on a consistent basis.

The Office of Facilities Management (OFM) is responsible for monitoring and tracking all PP&E. Additionally, when PP&E is placed into service, disposed of, or no longer in service, OFM is responsible for notifying the Office of Finance of the transaction to ensure that ITC's accounting records are updated accordingly. Based on the weaknesses noted above, it appears that the communication was not effectively being performed.

OMB Circular A-123, *Management's Responsibility for Internal Control*, states that management has a fundamental responsibility to develop and maintain effective internal control. Programs must operate and resources must be used consistent with agency missions, in compliance with laws and regulations, and with minimal potential for waste, fraud, and mismanagement. Internal control should be designed to provide reasonable assurance regarding prevention of or prompt detection of unauthorized acquisition, use or disposition of assets.

Recommendations

We recommend that ITC's management perform the following:

6. Implement a formal procedure requiring the OFM to report to the Office of Finance, at least quarterly, to ensure that PP&E is properly stated in the accounting records, and the quarterly financial statements due to OMB, as outlined in OMB Circular A-136.

7. Prepare a reconciliation between the fixed asset report and the accounting records, on a quarterly basis. Both the Director of the Office of Finance and the Director of OFM should review and approve the reconciliation. Management should also ensure differences noted during the reconciliation process are promptly resolved.

8. Establish and document formal policies and procedures to ensure PP&E is being capitalized, depreciated, monitored, and reported in accordance with applicable accounting standards and OMB regulations.

Management Response

Management concurs with the finding and recommendations. ITC management is committed to improving its internal control and accordingly, will develop a corrective action plan to address the issues identified.

Improvement is Needed in ITC's Recording and Reporting of Accounts Payable, Expenditures, and Obligations

During our work, management was unable to provide subsidiary ledgers in a timely manner. In addition, we noted several issues surrounding the accounting for accounts payable, expenditures, and obligations as summarized below:

- ITC does not have any formal policy or procedures specific to its accrual methodology for accounts payable. Management provided a spreadsheet to support its accrual calculation. Based on our review and understanding of the calculation, we noted that the calculation included an error of approximately $1.9 million. Accordingly, the FY 2009 accrual was understated by approximately $500K. Furthermore, management was unable to provide supporting documentation behind its accrual methodology as the methodology used to calculate the accounts payable accrual was not supported or documented. Therefore, we were unable to obtain adequate documentation that expenditures were being captured and recorded in the proper period.

- ITC does not perform a sufficient review and analysis of its expenditures to determine if payments are properly supported, classified, or reported in the proper period. During our work, we noted many expenditures recorded in FY 2009 were related to the prior years. For example, one invoice that we reviewed related to expenditures that covered a period of performance from December 2005 through September 2008. An invoice in the amount of approximately $315K was not received until October 2008; therefore, ITC did not record the expense in its accounting records until the invoice was received in FY 2009. However, ITC also included this expense of approximately $315K in its FY 2009 accrual calculation. As a result, the fiscal year 2009 accounts payable and expenditures were overstated, while FY 2008 accounts payable and expenditures were understated.

  Additionally, we noted an invoice for two subscriptions totaling approximately $185K. During our review, we noted that the amount pertained to services from July 2009 through May 2010. ITC expensed the full amount of the invoice in FY 2009 rather than capture the amount as an "advance or prepayment." Furthermore, the invoice did not agree to the terms of the purchase order. However, the COTR approved the invoice and Finance processed and paid the invoice without noting any exceptions.

- A routine review of obligations was not performed on a regular basis to ensure that obligations incurred were valid as of September 30, 2009. Specifically, management was unable to provide a report identifying open obligations as of September 30, 2009. Management indicated they were unable to generate the report for the last couple of months of the fiscal year due to a system issue. Management had notified its accounting service provider of the issue; however, it was not resolved until early November 2009. Specifically, on November 3, 2009, management was notified by its accounting service provider that the open obligations report provided to ITC incorrectly included 51 cancelled purchase orders with a total abnormal balance of approximately $108K.

  By not performing a review on a routine basis, obligations incurred may be over or understated. For example, in addition to the errors noted by the ITC's accounting service provider, we noted during testing of rent expenditures that ITC recorded an obligation for rent of approximately $8.8 million. However, total rent expenditures equaled only $8.4 million. Therefore, obligations incurred should have been reduced by approximately $400K; thereby ensuring that obligations incurred were properly stated as of September 30, 2009.

- We noted that ITC's contract files did not always contain adequate documentation. We also noted instances where the invoiced amount exceeded the contract value or billing rates charged to ITC were inconsistent or greater than the contractor's GSA Schedule rates. Based on the documentation provided, ITC appeared to modify several existing contracts without sufficiently documenting the need for the increases.

- ITC prepared a significant number of manual journal vouchers in fiscal year 2009. Although manual journal vouchers in of themselves are not considered an issue, they do increase the risk for errors. During our work, we noted that many of the manual journal vouchers did not have any evidence supporting a review and approval was performed. As a consequence of not performing an adequate review or approval, we noted that ITC incorrectly posted the increase of approximate $270K in accrued annual leave as a debit to the liability and a credit to the expense, when in fact the journal entry should have been recorded as a credit to the liability and a debit to the expense. Management corrected the error once it was brought to their attention as a result of our testing.

Recommendations

We recommend that ITC management perform the following:

9. Formalize and periodically update policies and procedures to provide guidance to management and staff in performing their responsibilities specific to financial management. These procedures should incorporate, at a minimum, day-to-day accounting procedures and financial reporting requirements to ensure the timeliness and accuracy of financial operations.

10. Conduct a more detailed and routine review of its expenditures to ensure transactions are properly supported, classified, or reported in the proper period.

11. Enhance controls over the monitoring of obligation balances to ensure the amounts remaining are needed and legally valid. Specifically, a report of open obligations should be generated on a regular basis, at least quarterly, for management to review and certify obligations are complete and accurate.

12. Provide additional training to ITC staff specific to ITC's procurement policies and procedures, as well as the Federal Acquisition Regulation to enhance compliance with the applicable requirements.

13. Implement procedures surrounding manual journal vouchers to ensure transactions are properly reviewed and approved. Formalizing accounting policies and procedures should help to reduce the number of manual journal vouchers.

Management Response

Management concurs with the finding and recommendations. ITC management is committed to improving its internal control and accordingly, will develop a corrective action plan to address the issues identified.

In addition to the material weaknesses described above, we noted certain other matters involving internal control and its operations that we will report to ITC management in a separate letter.

This report is intended solely for the information and use of the management and the Office of Inspector General of ITC, OMB, Government Accountability Office and Congress and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

November 6, 2009
Alexandria, VA

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Independent Auditor's Report on Compliance with Laws and Regulations

Acting Inspector General
U.S. International Trade Commission

We were engaged to audit the financial statements of the U.S. International Trade Commission (ITC) as of and for the year ended September 30, 2009, and have issued our report thereon dated November 6, 2009. The report states that because of the matters discussed therein, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on the balance sheet as of September 30, 2009, and the related statements of net cost, changes in net position, budgetary resources, and the statement of custodial activity for the fiscal year then ended.

The management of ITC is responsible for complying with laws and regulations applicable to ITC. We performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in the Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements,* as amended, including the requirements referred to in the Federal Managers' Financial Improvement Act of 1982 (FMFIA). We limited our tests of compliance to these provisions, and we did not test compliance with all laws and regulations applicable to ITC.

The results of our tests of compliance with applicable laws and regulations, and government-wide polices described in the preceding paragraph disclosed an instance of reportable noncompliance that is required to be reported under *Government Auditing Standards* or OMB guidance and is described in the following paragraphs.

The Federal Managers' Financial Integrity Act (FMFIA) requires agencies to establish management controls over their programs and financial systems. OMB Circular A-123, *Management's Responsibility for Internal Control,* is issued under the authority of the FMFIA. OMB Circular A-123 states that management is responsible for establishing and maintaining internal control to achieve the objectives of effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations. Management shall consistently apply the internal control standards to meet each of the internal control objectives and to assess the internal control effectiveness.

The ITC has not fully complied with certain requirements of the FMFIA. See details in our Independent Auditor's Report on Internal Control. The key items we identified include:

- Inadequate financial statement preparation and reporting controls;
- Insufficient controls surrounding Property, Plant and Equipment; and
- Insufficient controls surrounding accounts payable, expenditures, and obligations

Because we could not complete our audit, we were unable to determine whether there were other instances of noncompliance with laws and regulations that are required to be reported. Providing an opinion on compliance with certain provisions of laws and regulations, and government-wide policies was not an objective of our audit, and, accordingly, we do not express such an opinion.

This report is intended solely for the information and use of management and the Office of Inspector General of ITC, OMB, Government Accountability Office, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

November 6, 2009
Alexandria, VA

U.S. International Trade Commission
Unaudited Balance Sheets

As of September 30, 2009 and 2008
(In Dollars)

	2009	2008 Restated
Assets:		
Intragovernmental		
Fund Balance with Treasury (Note 3)	$ 10,294,388	$ 9,501,984
Accounts Receivable (Note 4)	211,236	
Total Intragovernmental	10,505,624	9,501,984
Accounts Receivable, Net (Note 4)	13,245	-
Equipment (Note 5)	3,029,114	4,402,934
Total Assets (Note 2)	$ 13,547,983	$ 13,904,918
Liabilities:		
Intragovernmental		
Employer Contributions and Payroll Taxes Payable (Note 6)	$ 498,460	$ 151,438
Unfunded FECA Liability (Note 6)	19,194	20,559
Other Post Employment Benefits (Note 6)	-	6,800
Other (Note 6)	347,932	252,237
Total Intragovernmental	865,586	431,034
Accounts Payable (Note 6)	955,667	847,150
Accrued Funded Payroll (Note 6)	2,305,998	1,655,216
Withholdings Payable (Note 6)		750,131
Unfunded Leave (Note 6)	3,444,392	3,371,835
Actuarial FECA Liability (Note 6)	51,660	48,884
Total Liabilities	7,623,303	7,104,250
Net Position:		
Unexpended Appropriations	6,186,331	5,839,012
Cumulative Results of Operations	(261,651)	961,656
Total Net Position	$ 5,924,680	$ 6,800,668
Total Liabilities and Net Position	$ 13,547,983	$ 13,904,918

The accompanying notes are an integral part of these statements.

U.S. International Trade Commission
Unaudited Statements of Net Cost

For the Years Ended September 30, 2009 and 2008
(In Dollars)

	2009	2008 Restated
Program Costs:		
Total Gross Costs (Note 9)	$ 79,256,457	$ 71,036,735
Net Cost of Operations	**$ 79,256,457**	**$ 71,036,735**

The accompanying notes are an integral part of these statements.

U.S. International Trade Commission
Unaudited Statements of Changes in Net Position

For the Years Ended September 30, 2009 and 2008
(In Dollars)

		2009		2008 Restated
Cumulative Results of Operations:				
Beginning Balance	$	(693,016)	$	398,275
Adjustments – Correction of Error		1,654,672		650,391
Beginning Balance, As Adjusted		961,656		1,048,666
Budgetary Financing Sources:				
Appropriations-Used		74,759,481		67,994,270
Other Financing Sources (Non-Exchange):				
Imputed Financing Costs (Note 10)		3,273,669		2,955,455
Total Financing Sources	$	78,033,150	$	70,949,725
Net Cost of Operations		(79,256,457)		(71,036,735)
Net Change		(1,223,307)		(87,010)
Cumulative Results of Operations		(261,651)		961,656
Unexpended Appropriations:				
Beginning Balance		5,839,012		5,433,282
Adjustment – Correction of Errors				
Beginning Balance, As Adjusted		5,839,012		5,433,282
Budgetary Financing Resources:				
Appropriations-Received		75,100,000		68,400,000
Appropriations-Used		(74,752,681)		(67,994,270)
Other Adjustments		-		-
Total Budgetary Financing Sources	$	347,319	$	405,730
Total Unexpended Appropriations	$	6,186,331	$	5,839,012
Net Position	$	5,924,680	$	6,800,668

The accompanying notes are an integral part of these statements.

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

For the Years Ended September 30, 2009 and 2008
(In Dollars)

		2009		2008 Restated
Budgetary Resources:				
Unobligated Balance, Brought Forward, October 1	$	322,370	$	566,266
Recoveries of Prior Year Unpaid Obligations (Note 11)		206,200		1,301,016
Budget Authority:				
Appropriation (Note 1)		75,100,000		68,400,000
Spending Authority From Offsetting Collections Earned:				
Earned				
Collected (Note 11)		800		21,282
Subtotal		75,100,800		68,421,282
Cancellations of Expired and No Year Accounts (-)		-		-
Permanently Not Available Pursuant to Public Law		-		-
Total Budgetary Resources	$	75,629,370	$	70,288,564
Status of Budgetary Resources:				
Obligations Incurred – Direct (Note 13)		75,415,266		69,966,193
Unobligated Balance - Available		214,104		322,370
Total Status of Budgetary Resources	$	75,629,370	$	70,288,564
Change in Obligated Balance:				
Obligated Balance, Net				
Unpaid Obligations, Brought Forward, October 1	$	8,927,377	$	7,917,714
Total unpaid obligated balance, net		8,927,377		7,917,714
Obligations incurred, net		75,415,266		69,966,193
Gross Outlays		(74,404,090)		(67,655,515)
Recoveries of prior year unpaid obligations, actual		(206,200)		(1,301,016)
Total, unpaid obligated balance, net, end of period	$	9,732,352	$	8,927,377
Net Outlays:				
Gross outlays		74,404,090		67,655,515
Offsetting collections		(800)		(21,282)
Net Outlays	$	74,403,290	$	67,634,233

The accompanying notes are an integral part of these statements.

U.S. International Trade Commission
Unaudited Statements of Custodial Activity

For the Years Ended September 30, 2009 and 2008
(In Dollars)

	2009	2008
Revenue Activity:		
Cash Collections – Penalties (Note 14)	-	$ 250,000
Accrual Adjustments (+/-)	-	(250,000)
Total Custodial Revenue	$ -	$ -
Disposition of Collections:		
Transferred to Treasury	-	(250,000)
(Increase)/ Decrease in Amounts Yet to be Transferred (+/-)	-	250,000
Net Custodial Activity	$ -	$ -

The accompanying notes are an integral part of these statements.

United States International Trade Commission

Notes to Financial Statements

September 30, 2009 and 2008

Note 1. Significant Accounting Policies

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

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

B. *Basis of Accounting and Presentation* – The ITC's financial statements conform to U.S. Generally Accepted Accounting Principles (GAAP) as promulgated by the Federal Accounting Standards Advisory Board (FASAB). The American Institute of Certified Public Accountants (AICPA) recognizes FASAB Standards as GAAP for federal reporting entities. These principles differ from budgetary reporting principles. The differences relate primarily to the capitalization and depreciation of property and equipment, as well as the recognition of other long-term assets and liabilities. The statements were prepared in conformity with OMB Circular A-136 Financial Reporting Requirements, June 10, 2009.

   The financials have been prepared from the books and records of the ITC and include all accounts of all funds under the control of the ITC. Accounting principles generally accepted in the United States of America encompass both accrual and budgetary transactions. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of federal funds. The accompanying financial statements are prepared on the accrual basis of accounting. The ITC's fiscal year is October 1 through September 30. FY 2009 and FY 2008 financial statements are presented to allow comparison.

   Assets – Intragovernmental assets are those assets that arise from transactions with other federal entities. Funds with the U.S. Treasury represent Intragovernmental assets on the ITC's balance sheet.

Financing Sources – The ITC has received a no-year appropriation for operations since FY 1993. Appropriations are recognized as revenue and expensed when related operating expenses are incurred. Differences between appropriations received and expensed are included as unexpended appropriations. Congress appropriated to the ITC $75,100,000 and $68,400,000 for salaries and expenses in FY 2009 and FY 2008, respectively.

Fund Balances with the U.S. Treasury – Cash receipts and disbursements are processed by the Treasury. The fund balance with the Treasury represents appropriated entity funds in the custody of the U.S. Treasury and is available to pay current liabilities and finance authorized purchase commitments. The ITC's obligated and unobligated fund balances are carried forward until goods or services are received and payments are made, or until such time as funds are deobligated.

C. *General Property, Plant, and Equipment* – The ITC capitalizes acquisitions with costs exceeding $50,000 and useful lives of two or more years. Property and equipment consist of equipment and software. Depreciation expense is calculated using the straight-line method over its estimated economic useful life as follows: software, 7 years; and equipment ranges from 5 to 7 years.

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

D. *Accrued Annual Leave* – Annual leave is accrued quarterly, although it is not funded until it is used by employees. To the extent current and prior-year appropriations are not available to fund annual leave earned but not taken; funding will be obtained from future salaries and expenses appropriations. Sick, compensatory, and certain other types of leave are not accrued and are expensed when used by the employee.

E. *Net Position* – Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results operations. Unexpended appropriations represent the amount of unobligated and unexpended budget authority. Unobligated balances are the amount of appropriations or other authority remaining after deducting the cumulative obligations from the amount available for obligation. Cumulative results of operations are the net result of the ITC's operations since inception.

F. *Intergovernmental Activities* – The ITC records and reports only those government-wide financial matters for which it is responsible and identifies only those financial matters that the ITC has been granted budget authority and resources to manage.

G. *Use of Estimates* – The preparation of the accompanying financial statements requires management to make estimates and assumptions about certain estimates included in the financial statements. Actual results will invariably differ from those estimates.

H. *Tax Status* – The ITC, as a federal agency, is not subject to federal, state, or local income taxes and accordingly, no provision for income taxes is recorded.

Note 2. Non-Entity Assets

		2009	
	Entity	**Non-Entity**	**Total**
Intragovernmental:			
Fund balance with Treasury	$ 9,946,456	$ 347,932	$ 10,294,388
Accounts Receivable	211,236	-	211,236
Total Intragovernmental	$ 10,157,692	$ 347,932	$ 10,505,624
Accounts receivable	13,245	-	13,245
Advances to Others	-	-	-
Plant, property, and equipment	3,029,114	-	3,029,114
Total	3,042,359	-	3,042,359
Total Assets	$ 13,200,051	$ 347,932	$ 13,547,983

		2008	
	Entity	**Non-Entity**	**Total**
Intragovernmental:			
Fund balance with Treasury	$ 9,249,747	$ 252,237	$ 9,501,984
Accounts Receivable	-	-	-
Total Intragovernmental	$ 9,249,747	$ 252,237	$ 9,501,984
Accounts receivable	-	-	-
Advances to Others	-	-	-
Plant, property, and equipment	4,402,934	-	4,402,934
Total	4,402,934	-	4,402,934
Total Assets	$ 13,652,681	$ 252,237	$ 13,904,918

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

Note 3. Fund Balances with Treasury

	2009	2008
A. Fund Balances:		
Appropriated Funds	$ 9,946,456	$ 9,249,747
Other Fund Types	347,932	252,237
Total	$ 10,294,388	$ 9,501,984
B. Status of Fund Balance with Treasury		
Unobligated Balance Available	$ 214,104	$ 322,370
Obligated Balance not yet Disbursed	9,732,352	8,927,377
Non-Budgetary Fund Balance with Treasury	347,932	252,237
Total	$ 10,294,388	$ 9,501,984

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

Note 4. Accounts Receivable, Net

The balance of Accounts Receivable was $224,481 and $0 at September 30, 2009 and September 30, 2008, respectively. For 2009, ITC recorded an Intragovernment Accounts Receivable from GPO and employees at $211,236 and $13,245, respectively.

Note 5. General Property, Plant, and Equipment, Net

Major classes of general property, plant, and equipment include: 1) office furniture, fixtures, and equipment, and 2) information systems and data handling equipment. Depreciation is recorded quarterly using straight-line method, based on estimated useful lives of seven years and five years, respectively, with a ten percent residual value.

FY 2009	Acquisition Value	Accumulated Depreciation	Net Book Value
Office Furniture, Fixtures, and Equipment	$ 962,555	$ 518,924	$ 443,631
Software	2,763,110	177,627	2,585,483
Total	$3,725,665	$ 696,551	$3,029,114

FY 2008	Acquisition Value	Accumulated Depreciation	Net Book Value
Office Furniture, Fixtures, and Equipment	$1,197,408	$ 643,147	$ 554,261
Software	6,725,276	2,876,603	3,848,673
Total	$7,922,684	$3,519,750	$4,402,934

Note 6. Liabilities Not Covered by Budgetary Resources

	2009	2008
Intragovernmental		
Unfunded FECA Liability	$ 19,194	$ 20,559
Other	$ 347.932	$ 252,237
Total Intragovernmental	$367,126	$ 272,296
Unfunded Leave	$3,444,392	$3,371,835
Actuarial FECA Liability	$ 51,660	$ 48,884
	$3,496,053	$3,420,719
Total liab. not covered by budgetary	$3,863,178	$3,693,015
Total liab. covered by budgetary	$3,760,125	$3,411,235
Total liabilities	$7,623,303	$7,104,250

Intragovernmental: Unfunded Federal Employees Compensation Act (FECA) Liability represents amount due to the Department of Labor (DOL) for claims paid on behalf of the ITC. The FECA provides income and medical cost protection to covered federal employees injured on the job, to employees who have incurred work-related occupation diseases, and to beneficiaries of employees whose deaths are attributable to job-related injuries or occupational diseases. The FECA program is administered by the U.S. DOL, which pays valid claims against the ITC and subsequently seeks reimbursement from the ITC for these paid claims, which will be funded in a future period.

Other liabilities consist of cease and desist bonds held for non-federal recipients and civil penalty imposed by the ITC which, upon collection, is held in trust for the U.S. Treasury. Other liabilities also include copier fees collected from the public for FOIA and other collections.

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

Actuarial FECA Liability: represents an estimated liability for future workers compensation claims based on data provided from DOL. The actuarial calculation is based on benefit payments made over the 12 quarters, and calculates the annual average payments. For medical expenses and compensation this average is then multiplied by the liability to benefit paid ratio for the whole FECA program.

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

Note 7. Contingencies

The ITC has certain claims and lawsuits pending against it. ITC management and legal counsel believe that losses, if any, from other claims and lawsuits will not be material to the fair presentation of the ITC’s financial statements.

Note 8. Leases

Real property leases reflect those that the ITC has committed to as of September 30, 2009. FY 2009 and FY 2008 operating lease costs were $8,260,493 and $5,568,767, respectively, for real property rental.

Note 9. Gross Cost by Budget Functional Classification

The Statement of Net Cost for the ITC uses a Budget Functional Classification (BFC) code. BFC codes are used to classify budget resources presented in the Budget of the United States Government per OMB. The total Net Cost was $79,256,457 and $71,036,735 at September 30, 2009, and September 30, 2008, respectively.

Note 10. Other Financing Sources – (Non–Exchange)

Imputed Financing. The amounts remitted to OPM for employees covered by the federal civilian benefit programs generally do not cover the actual cost of the benefits those employees will receive after they retire. As a consequence the ITC has recognized an "imputed financing" equal to the difference between the cost of providing benefits to ITC's employees and the contributions the ITC remitted for them.

Note 11. Spending Authority from Offsetting Collections/Adjustments

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

	2009	2008
Spending authority from offsetting collections	$ 800	$ 21,282
Recovery of prior year obligations	206,200	1,301,016
Total Intragovernmental	$207,000	$1,322,298

Note 12. Explanation of Difference between the Statement of Budgetary Resources and the Budget of the United States Government

For FY 2008 there are no material difference between amounts reported in the Statement of Budgetary Resources and the actual amounts reported on the President's Budget. The President's Budget with actual numbers for FY 2009 has not yet been published.

Note 13. Undelivered Orders at the End of the Period

Total Obligations Incurred—Direct (Category A) reported on the Statement of Budgetary Resources was $75,415,266 and $69,966,193 at September 30, 2009 and September 30, 2008, respectively.

Note 14. Non-Exchange Revenue – Custodial Activities

In FY 2008, the ITC functioned in a custodial capacity with respect to revenue transferred or transferable to recipient government entities or the public. These amounts are not reported as revenue to the ITC.

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

A civil penalty was imposed by the ITC for $1,000,000 in FY 2003. A receivable was set up in FY 2004 and ITC has collected the entire $1,000,000 amount. The last installment of $250,000 was collected during FY 2008. Collections from the receivable result in an accrual adjustment, decreasing the receivable amount and a comparable adjustment decreasing the amounts yet to be transferred to the Treasury. All collections were remitted to Treasury in the fiscal year in which they were received. There were no custodial activities for FY 2009.

Note 15. Reconciliation of Net Costs of Operations to Budget

A reconciliation of net costs of operations to budget is presented below to show the relationship between accrual-based (financial accounting) information in the statement of net cost and obligation-based (budgetary accounting) information in the statement of budgetary resources. This reconciliation ensures that the proprietary and budgetary accounts in the financial management system are in balance. For FY 2009, the ITC reconciled the difference between the $75.4 million in obligated resources and the $79.3 million in the net cost of operations by adjusting for offsetting collections/adjustments, imputed financing, financing resources not part of the net cost of operations, depreciation, and revaluation of assets. The details of this reconciliation are as follows:

	2009	2008
Resources Used to Finance Activities:		
Budgetary Resources Obligated:		
Obligations Incurred	$ 75,415,266	$ 69,966,193
Less: Spending Authority From Offsetting Collections/Adjustments (Note 10)	207,000	1,322,298
Net Obligations	75,208,266	68,643,895
Other Resources:		
Imputed Financing From Costs Absorbed by Others	3,273,669	2,955,455
Total Resources Used to Finance Activities	78,481,935	71,599,350
Resources Used to Finance Items Not Part of the Net Cost of Operations:		
Change in Budgetary Resources Obligated for Goods, Services, and Benefits		
Ordered but Not Yet Provided	455,585	649,625
Resources That Fund Expenses Recognized in Prior Periods	217,681	-
Resources That Finance the Acquisition of Assets	1,239,194	1,004,280
Resources That Finance Prepaid Expenses	-	-
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	1,912,460	1,653,906
Total Resources Used to Finance the Net Cost of Operations	76,569,475	69,945,444
Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period:		

Components Requiring or Generating Resources in Future Periods		
Increase in Annual Leave Liability	**72,557**	**271,025**
Worker's Compensation	**1,411**	**69,444**
Components Requiring or Generating Resources in Future Periods	**73,968**	**340,469**
Components Not Requiring or Generating Resources:		
Depreciation and Amortization	**537,882**	**750,821**
Revaluation of Assets or Liabilities	**2,075,132**	**-**
Total Components of Net Cost of Operations That Will Not Require or Generate Resources in Current Period	**2,686,982**	**1,091,290**
Net Cost of Operations	**$ 79,256,457**	**$ 71,036,735**

Note 16. Restatements

In FY 2009, the ITC completed development of a new software program which had capitalized costs of $2.9 million. ITC determined that $1.7 million of those costs had been incurred in the prior period resulting in a prior period adjustment of $1.7 million. With respect to the prior period adjustment, $0.7 million related to the adjustment of the opening 2008, Beginning Balance for the Cumulative results of operations in the Statement of Changes in Net Position. The restated amounts are reflected below:

	2008 Restated	**2008**	**Effective Change**
Balance Sheet			
Equipment	$4,402,934	$ 2,748,263	$ 1,654,672
Cumulative Results of Operations	$961,656	(693,015)	1,654,672
Net Position	$6,800,668	$5,145,997	$1,654,672
Statement of Net Cost			
Total Gross Costs	$71,036,735	$72,041,015	($1,004,280)
Statement of Changes in Net Position			
Cumulative Results of Operations – Beginning Balance	$1,048,666	$398,275	$650,391
Net Costs of Operations	$71,036,735	$72,041,015	($1,004,280)
Net Position	$6,800,668	$5,145,997	$1,654,672

Glossary of Acronyms and Abbreviations

AD	Antidumping
ALJs	Administrative Law Judges
Blue Book	Antidumping and Countervailing Duty Handbook
Commission	U.S. International Trade Commission
CRO	Congressional Relations Officer
Customs	U.S. Customs and Border Protection
CVD	Countervailing Duty
DOL	Department of Labor
EC	Office of Economics
EDIS	Electronic Document Information System
EEO	Office of Equal Employment Opportunity
FAIR	Federal Activities Inventory Report
FECA	Federal Employees Compensation Act
FISMA	Federal Information Security Management Act
FOIA	Freedom of Information Act
Foresee	Foresee Government Satisfaction Index
FTAs	Free Trade Agreements
FY	Fiscal Year
GC	Office of the General Counsel
GE	General equilibrium
GPO	Government Printing Office
GSA	Government Service Administration
GSP	Generalized System of Preferences
HS	Harmonized System
HTS	Harmonized Tariff Schedule of the United States
HTSA	Harmonized Tariff Schedule of the United States Annotated
ID	Initial Determination
IER	International Economic Review
OIG	Office of the Inspector General
IND	Office of Industries
INV	Office of Investigations
IPR	Intellectual Property Rights
IRM	Information Resources Management
IT	Information Technology
ITC	International Trade Commission
ITDS	International Trade Data System
ITS	Office of Information Technology Services
ITTR	Industry Trade and Technology Review
JICE	Journal of International Commerce and Economies
MAST	Multi-Agency Support Team
NAFTA	North American Free Trade Agreement
NAICS	North American Industry Classification System
NBC	Department of Interiors National Business Center
NIST	National Institute of Standards and Technology

NTM	Nontariff Measure
OCIO	Office of the Chief Information Officer
OMB	Office of Management and Budget
OP	Office of Operations
OPM	Office of Personnel Management
OUII	Office of Unfair Import Investigations
PAR	Performance and Accountability Report
PE	Partial equilibrium
PTO	Patent and Trademark Office
Red Book	An Introduction to Administrative Protective Order Practice in Injury Investigations
Results Act	Government Performance and Results Act
TATA	Office of Tariff Affairs and Trade Agreements
TEO	Temporary Exclusion Order
U.S.C.	United States Code (of General and Permanent Laws)
URAA	Uruguay Round Agreements Act
USAGE	United States Applied General Equilibrium
USTR	United States Trade Representative
WCO	World Customs Organization
WTO	World Trade Organization

This report is available at
http://www.usitc.gov/press_room/documents/FinalPAR2009.pdf.

If you have any questions, comments, or desire additional copies of this report, please call Phyllis Carpenter, Budget Analyst at 202-205-2748 or email at phyllis.carpenter@usitc.gov