United States International Trade Commission

Performance and Accountability Report

Fiscal Year 2010

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Message from the Chairman

I am pleased to transmit the FY 2010 Performance and Accountability Report for the United States International Trade Commission. This report documents the Commission's programmatic and financial performance for the year, and discusses our accomplishments and challenges.

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

Program Accomplishments

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

- Thirty-seven import injury investigations were completed and 32 instituted during FY 2010. These investigations included original antidumping and countervailing duty investigations and five-year reviews.
- During FY 2010, both the level of new intellectual property-based import complaint filings and the number of matters active during the course of the year set new records. Specifically, 51 investigations were instituted based on new complaints alleging violations, and seven ancillary proceedings related to prior section 337 investigations were commenced during the year. In total, 103 investigations and ancillary proceedings were active at the Commission during FY 2010. These complex investigations frequently involved products or processes related to telecommunications, pharmaceuticals, or microelectronic devices.
- The Commission continued efforts in FY 2010 to improve its ability to handle surges in investigative activity in intellectual property-based areas. In particular, the Commission now has six Administrative Law Judges on board. The agency signed a lease for permanent space in the Commission's building that will include an additional courtroom. The build-out should be finished in the first half of FY 2011.
- Thirteen fact-finding and probable economic effects investigations were completed and sixteen instituted during FY 2010. These studies were conducted at the request of the United States Trade Representative (USTR) or the Congress to assess the impact of proposed changes in trade policy and trade negotiations. 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.
- 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 13.5 percent.

FY 2010 Agency Financial Report

The Commission's Fiscal Year 2009 financial statement audit resulted in a disclaimer of opinion by the independent accounting firm Castro & Company, LLC, monitored by the Inspector General. As a result, the Commission took major remedial actions that are proactive, aggressive, and comprehensive. The Commission began implementing a corrective action plan, which is being monitored by the Inspector General. Such remedial actions included a comprehensive review and analysis of the amounts reported on the FY 2010 general ledger accounts and financial statements to ensure amounts were supported by detailed records, and costs were accumulated and reported on the financial statements in accordance with applicable accounting standards. In addition, the Commission has documented how information flows through the organization in the form of cycle memoranda, provided financial management training to its senior managers, and drafted its first comprehensive accounting manual. As a result of the major efforts taken during FY 2010, the Commission was able to achieve a qualified opinion on the Commission's FY 2010 financial statements.

While this is a significant improvement from last year, we recognize that we have much more to do to ensure that we efficiently manage the resources entrusted to us. Concurrent with the FY 2010 audit, the Commission is assessing existing staffing agency-wide to identify the skills and personnel resources needed to implement new internal control and financial management procedures. In order to address the deficiencies identified by the auditors, the Commission intends to establish a new financial management structure, hire or train staff with requisite high-level analytical and communication skills, and ensure transparency and accountability in the formulation, execution, performance, and management of agency budgetary resources.

As Chairman, I assure you that Commission employees are committed to the agency's mission, and I applaud their efforts.

Deanna Tanner Okun
November 15, 2010

Management's Discussion and Analysis Section

Introduction

The United States International Trade Commission (Commission or USITC) FY 2010 Performance and Accountability Report (PAR) presents the results of the Commission's program and financial performance and demonstrates to the Congress, the President, and the public the USITC's commitment to its mission and accountability for the resources entrusted to it. This report is available at www.usitc.gov.

About the USITC

The USITC was established by Congress on September 8, 1916 as the U.S. Tariff Commission. In 1974, the name was changed to the United States International Trade Commission by section 171 of the Trade Act of 1974. The USITC 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 USITC also adjudicates cases involving imports that allegedly infringe intellectual property rights. Through such proceedings, the agency facilitates a rules-based international trading system. The Commission also serves as a federal resource where trade data and other trade policy-related information are gathered and analyzed. The information and analyses are provided to the President, the Office of the United States Trade Representative (USTR), and Congress to facilitate the development of sound and informed U.S. trade policy. The Commission makes most of its information and analysis available through its Web site to the public to promote a better understanding of international trade issues.

Mission

The mission of the Commission is to:

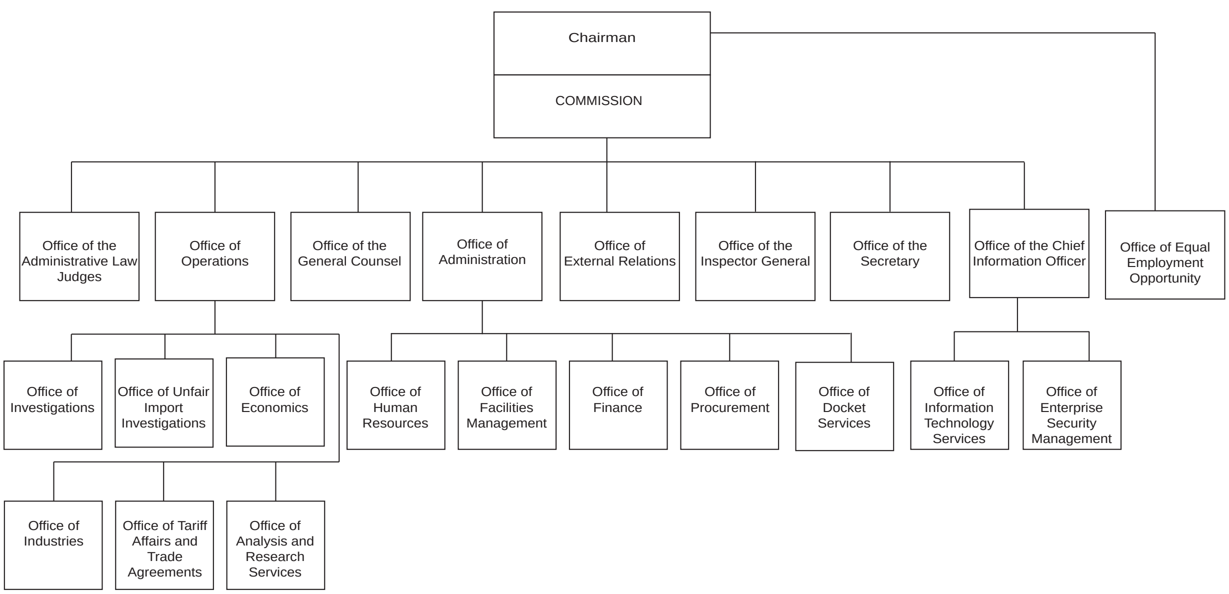
- Administer U.S. trade remedy laws within its mandate in a fair and objective manner;
- Provide the President, USTR, and Congress with independent, quality analysis, information, and support on matters relating to tariffs and international trade and competitiveness; and
- Maintain the Harmonized Tariff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

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

Organization

The USITC is headed by six Commissioners, nominated by the President and confirmed by the U.S. Senate. Commissioner Deanna Tanner Okun is serving as Chairman of the USITC by operation of law. Commissioner Okun, the senior Republican at the USITC, became Chairman when outgoing Chairman Shara L. Aranoff's term expired on June 16, 2010. Commissioner Irving Williamson, a Democrat, is serving as Vice Chairman for the term expiring June 16, 2012. Commissioners serving at the end of the fiscal year are, in terms of seniority, Charlotte R. Lane, Daniel R. Pearson, Shara L. Aranoff, and Dean A. Pinkert.

United States International Trade Commission's Office-Level Organization Chart



Commissioners

Each of the six Commissioners serves a term of nine years, unless appointed to fill an unexpired term. The terms are set by statute[1] and are staggered so that a different term expires every 18 months. A Commissioner who has served for more than five years is ineligible for reappointment. A Commissioner may, however, continue to serve after the expiration of his or her term until a successor is appointed and qualified. No more than three Commissioners may be members of the same political party. The Chairman and the Vice Chairman are designated by the President and serve for a statutory two-year term. The Chairman may not be of the same political party as the preceding Chairman, nor may the President designate two Commissioners of the same political party to serve as the Chairman and Vice Chairman. Currently three Democrats and three Republicans serve as Commissioners.

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

Office of the General Counsel

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

Office of Operations

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

- The Office of Economics (EC) conducts investigations primarily under section 332 of the Tariff Act of 1930, section 131 of the Trade Act of 1974, and section 2104 of the Trade Act of 2002. The Office of Economics also provides expert economic analysis for import injury investigations, as well as other industry and economic analysis products.
- The Office of Industries (IND) conducts investigations primarily under section 332 of the Tariff Act of 1930, section 131 of the Trade Act of 1974, and section 2104 of the Trade Act of 2002. The Office of Industries maintains technical expertise related to the performance and global

[1] 19 U.S.C § 1330, Organization of Commission.

competitiveness of U.S. industries and the impact of international trade on those industries for these studies and import injury investigations.

- The Office of Investigations (INV) conducts import injury investigations to fulfill the Commission's investigative mandates, including those specified in the Tariff Act of 1930, the Trade Act of 1974, the North American Free Trade Agreement (NAFTA) Implementation Act of 1993, and the Uruguay Round Agreements Act (URAA) of 1994.
- The Office of Tariff Affairs and Trade Agreements (TATA) carries out the Commission's responsibilities with respect to the HTS and the International Harmonized System.
- The Office of Unfair Import Investigations (OUII) participates in adjudicatory investigations, usually involving patent and trademark infringement, conducted under section 337 of the Tariff Act of 1930, both during the pre-institution phase and as a party to the litigation with no commercial interest in the outcome.
- The Office of Analysis and Research Services (OARS) provides research and investigative support. The Commission established OARS in FY 2010. When fully staffed it will comprise library, editorial, knowledge resources, and statistical services.

Office of External Relations

The Office of External Relations (ER) develops and maintains liaison between the Commission and its diverse external customers and is the point 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. Through its staff and subsidiary offices, the OCIO seeks to promote, deliver, and manage the secure and efficient application of technology to the Commission's business activities. Component offices include Enterprise Security Management and Information Technology Services (ITS).

Office of Administration

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

Office of Inspector General

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

Office of Equal Employment Opportunity

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

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.

Resources

The USITC's workforce consists of over 360 employees and includes international trade analysts (investigators, nomenclature experts, and experts in particular industries), international economists, attorneys, and technical support personnel (figure 1).

The Commission has received "no year" appropriations for operations since FY 1993. For FY 2010, the Commission received appropriated funds of approximately $81.9 million. Sixty-five percent of the Commission's one program consists of salary and benefit expenses totaling $52.9 million. The Commission's budgetary resources for FY 2010 totaled $83.4 million (figure 2).

Figure 1: USITC workforce FY 2006-FY 2010

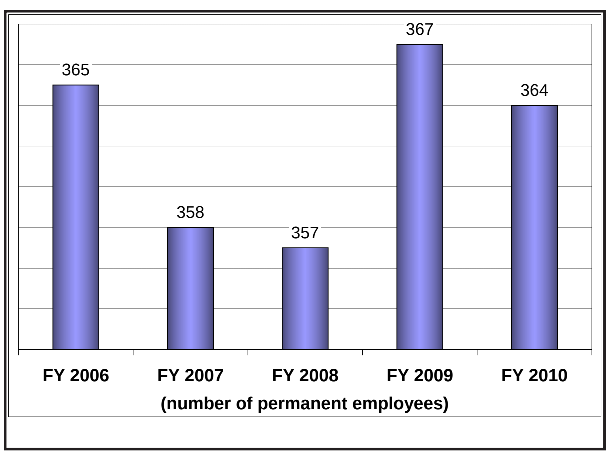
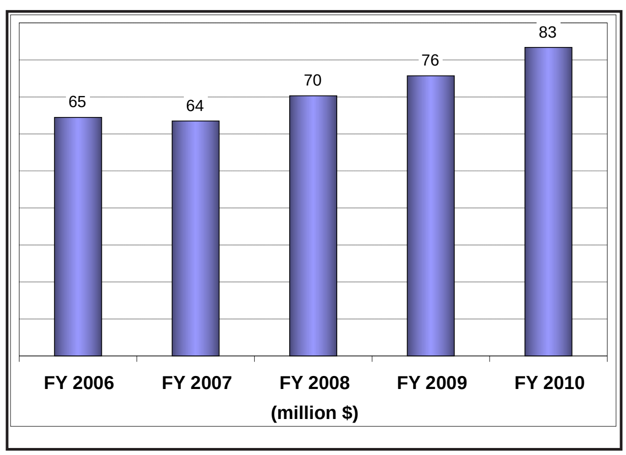


Figure 2: USITC resources, FY 2006-FY 2010



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 describes the relationship of this report to other planning documents, provides an overview of the seventh edition of the Commission's Strategic Plan, surveys the Commission's FY 2010 performance in meeting the goals established in the FY 2010 Performance Plan, and summarizes 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 an annual Performance Plan. The Strategic Plan establishes general goals and objectives for the Commission. To enhance the effectiveness of strategic planning and budget development, the Commission aligns its budget formulation and execution with its Strategic Plan. In addition, the agency combines its annual Performance Plan with its budget justification for that year to form a performance budget.

The PAR relates directly to these planning documents and is prepared in a manner 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 2010 Performance Plan and the broader-based goals articulated in the Strategic Plan.

The Performance Plan for FY 2010 sets out annual goals (targets) for that year that correspond to the broader strategic goals, performance goals and strategies identified in the Strategic Plan. The FY 2010 and FY 2011 Budget Justifications also describe 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. It therefore 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 began implementing an updated Strategic Human Capital Plan during FY 2010. During FY 2011, the Commission will issue an update to its 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 or integrate government-wide initiatives and requirements to the Commission's Strategic Goals.

Overview of the Strategic Plan

The Commission issued the seventh edition of its Strategic Plan in September 2009 for FY 2009–FY 2014. In this Plan, the Commission identified five strategic Operations:

- Import Injury Investigations
- Intellectual Property-based Import Investigations
- Industry and Economic Analysis

- Tariff and Trade Information Services
- Trade Policy Support

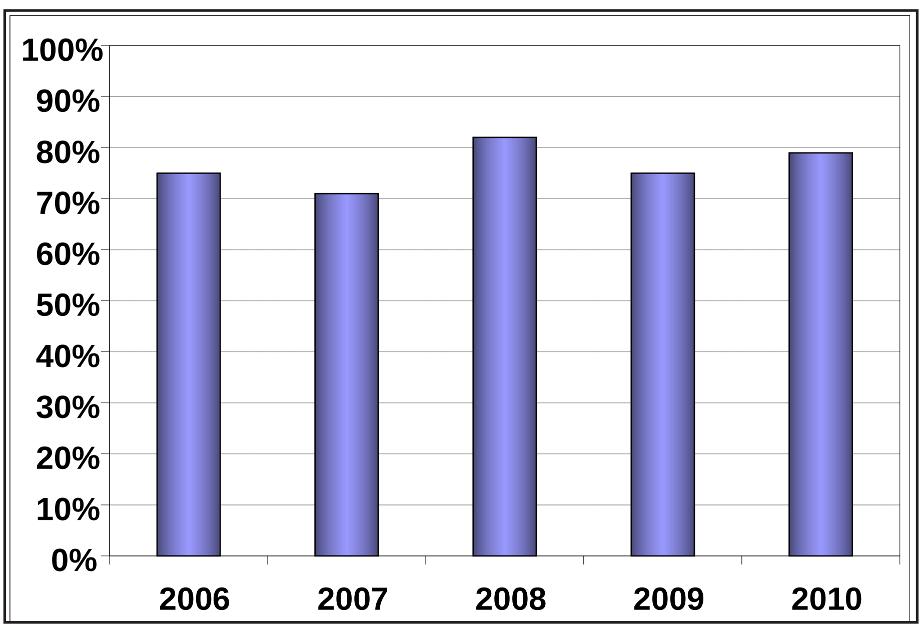
While the Commission has one program activity set forth in the Budget of the United States, the five Operations define the functions of the Commission, highlighting the diverse benefits that the Commission provides in facilitating an open trading system based on the rule of law and the economic interests of the United States. For each of these Operations, the Strategic Plan identifies a strategic goal, performance goals, and strategies to enable the agency to meet these goals. The Commission's annual goals provide the measures by which the agency can assess whether it is making progress toward achieving its performance goals.

Performance Results in Brief

The PAR describes, for a specific fiscal year, the extent to which the Commission has met the annual goals established in the Performance Plan for that year. The report also identifies any instance in which the Commission did not meet an annual goal, and indicates the actions to be taken to ensure that such goals are met in the future. The current report covers the Commission's performance in FY 2010; describes, for comparison purposes, its performance in FY 2006–FY 2009; and lists its annual goals for FY 2011.

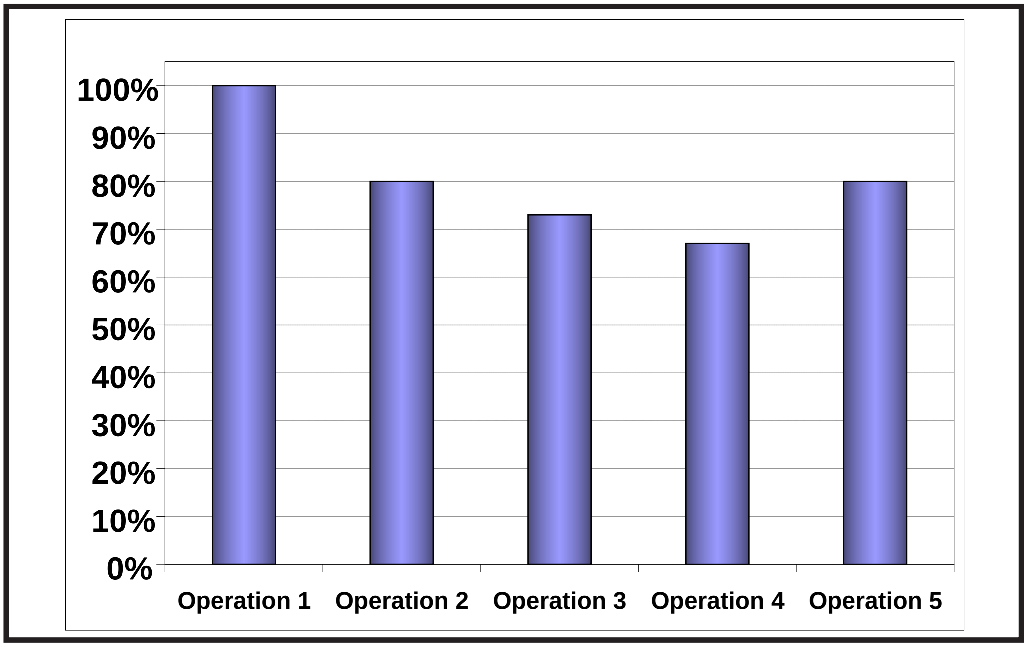
In the aggregate, the Commission met or exceeded 79 percent of the annual goals it set for FY 2010. This represents a 4 percentage point improvement over its FY 2009 performance and an improvement over three of four previous fiscal years (figure 3).

Figure 3: Percent of goals met or exceeded, FY 2006–FY 2010



FY 2010 performance for each of the five Operations is shown in figure 4. The Commission met or exceeded all of the annual goals it established for Import Injury Investigations (Operation 1). The agency met or exceeded at least 67 percent of the annual goals for each of its other Operations.

Figure 4: Percent of goals met by Operations, FY 2010



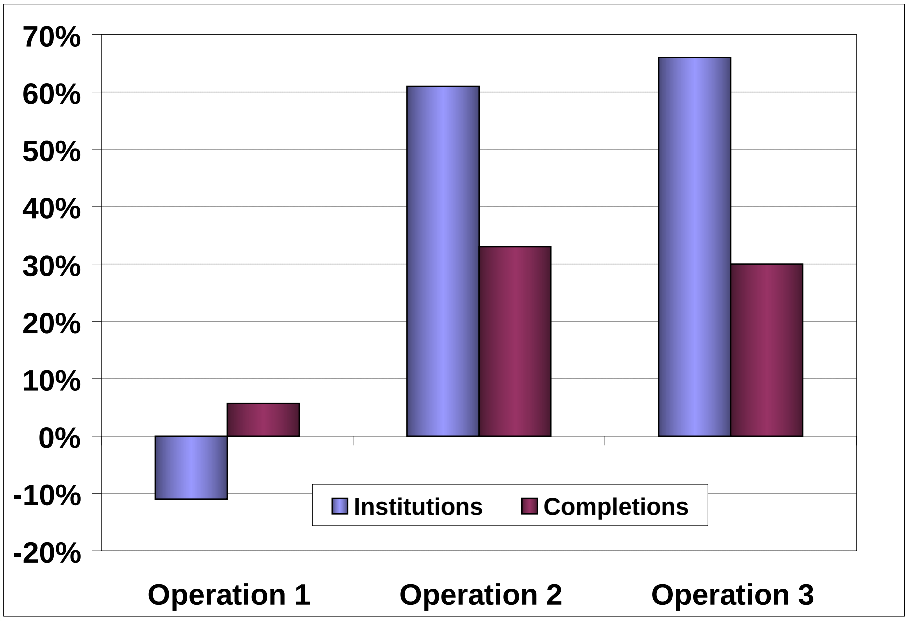
In FY 2010, the Commission met its annual goals pertaining to statutory and key administrative deadlines.

Timely submission of documents to the agency's customers assures compliance with applicable laws and court orders and, in the case of Industry and Economic Analysis investigations, provides information to agency customers within time frames that are useful to them. The Commission met these goals despite a significant uptick in caseload activity (figure 5). Although new import injury investigations (Operation 1) declined somewhat, new activity in intellectual property-based import investigations (Operation 2) and Industry and Economic Analysis Investigations (Operation 3) both increased by over 60 percent. The use of multidisciplinary investigation teams, cross-training of staff, and improved information technology (IT) contributed to the Commission's ability to accommodate these fluctuations successfully.

The continued significant activity in Operation 2 investigations over the past decade has made it difficult for the Commission to meet its goal of concluding investigations within targeted time frames. One significant constraint was an insufficient number of ALJs. In addition, the ALJs found it difficult to locate an available courtroom when setting dates for evidentiary hearings and conferences. In previous fiscal years the agency increased the size of its ALJ corps. In FY 2010, the Commission secured additional courtroom space and expects it to be operational by mid-FY 2011. The Commission expects this to alleviate scheduling problems and contribute to a reduction in the average length of such investigations.

The Commission continued to make progress in developing analytical methods and data that contributed to various Commission investigations, as well as technical assistance to the executive branch and Congress. New areas of investigative research requested in FY 2010 include a series of investigations on small- and medium-sized enterprises (SMEs) and Chinese intellectual property rights (IPR) infringement. The reports on SMEs examined, inter alia, the extent and composition of U.S. exports by these firms, the exporting behavior of these firms compared to SMEs in the European Union, and impediments to exporting facedby these firms. The reports on Chinese IPR infringement are underway and will be delivered during FY 2011.

Figure 5: Case load changes by Operation, FY 2010 over FY 2009



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, although it did not meet two of the FY 2010 targets in this area as a result of the heavy, analytically complex statutory workload. Although the agency retained one of these targets for FY 2011, it replaced the other with goals pertaining to different types of enhancements that are of more relevance to the agency's statutory customers. The Commission continued to make progress with model validation. The agency also continued its research on the identification and quantification of various types of nontariff measures (NTMs).

The Commission achieved the majority of its FY 2010 goals pertaining to making information available to its customers and the public electronically. The Commission met and exceeded all goals associated with making information available on the Electronic Document Information System (EDIS). This continues the performance trend of the previous fiscal year.

The Commission continued efforts to improve the content and performance of its Web site and met most of the goals it established in this area. Notably, user satisfaction with the overall site and its component parts increased over FY 2010. Some of this increase likely results from deployment of a redesigned agency Web site in July 2009. Efforts to improve specific components of the Web site, such as the HTS Online Reference Tool, also likely contributed to improvement in user satisfaction. In FY 2010 the agency made another important improvement to the Web site by developing a secure "drop box." This technology allows the agency to exchange information with entities outside the organization in a secure manner. During the year, the technology was used by the Commission's statutory customers and by firms responding to Commission questionnaires related to one of the SME investigations.

Although the Commission did not meet a goal concerning a target for use of the agency's Trade DataWeb (DataWeb), the Commission determined that this goal was no longer useful and should be discontinued. It determined that after 10 years of public availability, the intended audience for the DataWeb is aware of the resource, and thus it is not realistic to expect usage to continue to increase on an annual basis. Likewise, the goal to increase the use of the Industry and Economic Analysis pages of the Web site was not met. Although the Commission has dropped this specific goal, it will continue to enhance this section of the Web site and will measure the success of its efforts through user feedback.

Annual goals pertaining to internal tracking of e-mail responses to tariff and trade information queries and to technical assistance requests also were not fully achieved in FY 2010. In both instances, the agency has directed resources to address the problems and has developed annual targets that should yield more relevant performance information.

The Commission established one new performance goal for FY 2011 in response to feedback from its statutory customers. This goal is directed to identifying potential public interest issues earlier in the section 337 process and developing additional information relating to such issues prior to the remedy phase of an investigation.

Other new annual targets established for FY 2011 pertain to increasing outreach to the public, developing better methods to collect and respond to Commissioner assessments of the quality of Industry and Economic Analysis investigations, and developing more effective means to track the delivery of various types of technical assistance provided to the executive branch and congressional committees.

The Performance Section of this report provides a comparison of actual FY 2010 performance to the annual goals established for that fiscal year and, when appropriate, to baseline measures established in previous fiscal years. The discussion is organized by Operation. For each Operation, the performance goals, corresponding annual goals for 2010 and 2011, performance indicators, and FY 2010 results are discussed in detail.

Finally, the Performance Section of this report identifies each specific goal that was not fully achieved and discusses corrective measures that the Commission has undertaken to achieve those goals.

Reviews and Evaluations

The Commission reviews its Strategic Plan on an annual basis by assessing its strategic goals, performance goals, and strategies and how well it implements and achieves them. The Commission has also reviewed the goals in the FY 2011 Performance Plan in light of performance in FY 2010 and the Commission's strategic human capital planning.[2]

The Commission gathers performance data on a quarterly basis, and periodically performs verification and validation of such data. The practice of gathering data and reporting performance results internally on a quarterly basis began during FY 2010. For each Operation, a senior agency manager serves as Operations Coordinator. Under the general oversight of the Strategic Planning Committee, the Operations 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.

[2] Adjustments to specific goals are discussed in the Performance Section under the respective Operation as appropriate.

Pursuant to the Results Act, the Commission conducts program evaluations to improve its plans and operations. The Strategic Plan and the FY 2010 Performance Plan identified the review of programs and procedures as a strategy for accomplishing the performance goals established for several strategic Operations.

As noted in its FY 2009 PAR, the Commission began an evaluation of its strategic Operation 2 (Intellectual Property-based Import Investigations). Subsequently, in FY 2010, the Commission engaged a contractor to evaluate its Office of Administration, which supports all five strategic Operations. The Commission received recommendations for both of these initiatives in FY 2010. The Commission is evaluating the recommendations and expects to implement appropriate actions during FY 2011.

Government-wide Initiatives

The Commission has independent statutory budget authority, and is not subject to Office of Management and Budget (OMB) review. Nevertheless, the Commission has incorporated into its management initiatives, where relevant and appropriate, the guidance on achieving budget and performance targets and meeting government-wide initiatives contained in the OMB memoranda issued on June 8, 2010.[3]

Improper Payments Reductions

OMB guidance on improper payments reductions seeks specific actions for contributing to the FY 2010 government-wide goals of reducing improper payments by $20.0 billion and recapturing $2.0 billion in improper payments to vendors. The Commission has developed and issued new policies to minimize improper payments and ensure that its new controls are rigorously implemented and that testing and monitoring of these controls occur as scheduled. The Commission has only one program. Sixty-five percent of the program consists of salaries and benefits and 10.4 percent rent. It is the Commission's policy to classify both over- and underpayments as improper payments, regardless of the amount. It is also the Commission's policy to use the absolute value of its over- and underpayments to determine its reportable improper payments.

Effective the fourth quarter of FY 2010, the Commission began to perform the following procedures on a quarterly basis to identify any improper payments: (1) review the accounts receivable and accounts payable ledgers to determine if any receivables or payables resulted from improper payments; and (2) select five random transactions over $10,000 to validate proper payments. If any payment is found to be improper, five additional transactions are randomly selected from the same cost center to validate proper payments. Further, the USITC reviews personnel payroll transactions to determine if selected payroll transactions exceed the established federal limits. On an annual basis, the Commission reviews—in coordination with the Inspector General—internal policies and procedures to ensure that cost-beneficial control procedures are in place to prevent and detect improper payments.

Acquisition Improvements

OMB guidance on acquisition improvements seeks specific actions for achieving defined savings goals as well as specific actions and goals for reducing the Commission's reliance on high-risk contract vehicles, including contracts awarded noncompetitively, procurements where only one bid is received, and cost-reimbursement and time-and-materials contracts.

The Commission will engage in a comprehensive review of its acquisition policies and procedures in order to significantly improve the acquisition process. All USITC staff involved in the acquisition process will participate in this review. The primary emphasis of this systemic review will be contract administration and the interconnection between contract administration and financial management. Previously, the acquisition function, both in the Office of Procurement and the internal customers, had focused almost exclusively on acquisition of goods and services, with few resources available for the more analytical contract administration functions. In addition, there was no concerted effort to take a step back from

[3] See M-10-19, Fiscal Year 2012 Budget Guidance (June 8, 2010), and M-10-20, Identifying Low-Priority Agency Programs (June 8, 2010).

the individual acquisition and consider broader themes, such as economies and efficiencies that could be achieved.

To accomplish this, the Commission will review all contracts to identify opportunities for strategic sourcing, reductions in scope, and contract administration efficiencies. In doing so, the Commission's Office of Procurement will advise internal customers in the procurement process to acquire on a timely basis the best-value products and services in accordance with the Federal Acquisition Regulation (FAR) and other requirements. This will help to ensure real value on acquisitions and allow the Commission to determine whether acquisitions that are not cost-effective should be terminated. In addition, the USITC will initiate new record-keeping procedures, quarterly compliance review of procurement files, and tracking and reporting of performance data for all major contracts on actions that have been instituted.

With regard to IT contracts specifically, the OCIO currently contracts with five discrete companies in order to obtain IT-related services (helpdesk, security review and support, and database and applications development). An evaluation of the services under these contracts is underway, with the goal of developing alternative approaches to improve the cost-effectiveness of these contracts. Specifically, the OCIO is considering the feasibility of strategic sourcing or renegotiating these contracts in order to achieve at least 10 percent savings by the second quarter of FY 2011.

Contract administration requires in-depth analysis of obligations, contracts, invoicing, and disbursements using a multi-team approach, involving procurement, finance, program cost center managers, and Contracting Officer's Technical Representatives (COTRs). The Commission is redesigning its acquisition policies and procedures to place greater emphasis on integrated financial management goals. In the past, the agency's acquisition process focused on the transactional level. This approach ensured that immediate Commission business needs were met but, in the absence of rigorous monitoring, review, and testing, contract administration suffered. The result has been an overhang of obligated funds on expired contracts and invoices from prior periods paid with current funds on multiyear contracts.

More rigorous policies and more detailed procedures regarding contract monitoring, review, and testing will require additional analytical capabilities. The Commission is currently deficient in the skills necessary to enact these procedures and reporting requirements. A comprehensive training program for all employees involved in the acquisition process is necessary and additional analytical staff will have to be added. These system improvements and additional skilled analytical staff are needed to help ensure that the Commission more efficiently and effectively manages its financial resources.

A particular area of emphasis will be Interagency Payment and Collection (IPAC) withdrawals from the U.S. Department of the Treasury (Treasury) account by other federal agencies. IPAC transfers are complicated, high-dollar-value transactions that are complicated to monitor for various reasons. Review of the IPAC process will necessitate substantial analytic staff time in FY 2011, as the USITC closely monitors its obligations and disbursements on a yearly basis and performs a deobligation exercise on a quarterly basis. Often in the past, reconciliations of IPAC transactions have not involved all members of the acquisition team. This has led to errors in tracking payments to obligations and the tracking of both to contract performance.

Documentation of internal controls over both operational programs and financial reporting is on-going, but few of the recently instituted internal controls have been tested. Regular monitoring, testing, and reporting will help raise employee awareness and assure senior agency management that these recent remedial efforts and future monitoring, testing, and reporting will bring about lasting improvements.

Acquisition Workforce

OMB guidance requires agencies to execute a plan for developing its acquisition workforce. The Commission is committed to improving its acquisition workforce by providing adequate resources to all aspects of the acquisition process, in order to manage its appropriated funds efficiently. An on-going assessment of existing staffing agency-wide will help to identify the skills and personnel resources needed to implement new internal control and financial management procedures, while minimizing the need to add new FTEs, and also define areas where training is required. Moreover, the Commission will ensure that internal controls are followed. The agency will emphasize the integration of procurement, finance, budget and cost center management in improving its acquisition workforce. Staff with requisite high-level analytical and communication skills will be directed to meet the demands of quarterly analytical reviews of accruals, obligations, and expenditures, as well as the demands of integrated financial management.

For example, the Commission intends to emphasize analytical and writing skills in recruiting for procurement specialists when rebuilding the Office of Procurement with a newly hired director and the recruitment of contract specialists. The Commission will emphasize federal sector auditing expertise and significant experience with OMB A-123 internal control regulations when recruiting for additional financial management professionals. Appropriate training and certifications will be required of all COTRs, cost center managers, and their support staff.

Project Management

OMB guidance requires agencies to complete a review of their IT investment portfolios, identify high-risk projects, and create plans for re-scoping such projects. The USITC's project management process includes submitting detailed project proposals to the Strategic Planning and Budget Committees for any projects expected to cost $50,000 or more and thus be classified as a capital asset. Record-keeping and financial monitoring requirements will be enhanced, to include detailed quarterly obligation and accrued expenditure reviews. With regard to IT projects specifically, the OCIO is currently reviewing the Commission's IT portfolio. In this review, IT investments and activities will be re-validated, re-scoped, or terminated in order to ensure alignment with Commission strategic goals, business requirements, best practices in portfolio management, and planned infrastructure upgrades.

IT Infrastructure

OMB guidance stresses the adoption of cloud computing solutions where they represent the best value at an acceptable risk. The Commission has adopted a cloud computing architecture in its implementation of fully Web-enabled and -delivered systems supporting critical business functions (EDIS, DataWeb, etc.), its deployment of Citrix in support of telework, and its use of outsourced Web-delivered services in the Offices of Finance and Human Resources. The Commission's nascent continuity of operations (COOP) plan targets a comprehensive, resilient, all-hazards business continuity and disaster recovery capability, including a backup data center. The OCIO will identify and analyze opportunities to enhance and extend its cloud computing architecture to deliver high-availability IT services under all conditions.

Cyber Security

OMB guidance on cyber security requires agencies to migrate to an approach that emphasizes continuous monitoring as well as control frameworks and documentation. During FY 2011, the OCIO will review its Information Security Program in order to both find efficiencies and continue to improve ongoing monitoring practices.

Improving Employee Engagement

OMB guidance encourages agencies to use findings from employee surveys to identify areas most needing improvement and describe the actions to improve performance in those areas. The Commission is committed to improving employee engagement through the use of automated surveys tools and new applications, such as SharePoint. Both could improve the utility and efficiency of employee feedback and allow for broader collaboration in management decision-making.

Wellness

OMB guidance requests a high level summary of leadership, management and other resources devoted to wellness. The Commission supports wellness initiatives through work-life benefits such as health and fitness reimbursements, a worksite lactation station, and space to hold exercise classes. The USITC provides locker and shower facilities to encourage bike commuters and daily exercise by staff. During FY 2010, a Wellness Committee was convened to consider suggestions for future initiatives, such as support groups for employees facing elder care or childcare issues and expansion of the fitness reimbursement program to include term employees. The Commission participated in the FedsGetFit government-wide initiative by holding a healthy recipe contest and sending a contingent of employees on the Federal Fitness Walk. The USITC is exploring a seminar on bicycle commuting with the Washington Area Bicyclist Association.

Chairman's 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 is able to provide a qualified statement of assurance that the internal controls and financial management systems meet the objectives of FMFIA, with the exceptions of the material weaknesses and non-conformance described below.

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 No. A-123, *Management's Responsibility for Internal Control*. Based on the results of this evaluation, the Commission identified inadequate internal controls over financial reporting; insufficient monitoring, analysis and oversight of financial operations; inadequate controls over undelivered orders, accounts payable, and expenditures; and insufficient resources and personnel with appropriate skill sets as material weaknesses in its internal control over financial reporting, the effectiveness and efficiency of operations, and compliance with applicable laws and regulations as of September 30, 2010. In addition, the Commission did not comply with the requirements of 5 U.S.C. § 7905, *Programs to encourage commuting by means other than single-occupancy motor vehicles*, and the related guidance outlined in Appropriations Law. Other than the exceptions noted above, the internal controls were operating effectively and no other material weaknesses were found in the design or operation of these internal controls.

In November 2009, our independent public auditors issued their report which highlighted financial management deficiencies and challenges the Commission faced in any attempt to achieve financial accountability over its assets and operations. Immediately following the release of the report, the Commission began developing an aggressive and comprehensive strategy to address the findings in the report in a manner that would place the Commission on track to achieve financial accountability. As a result, during fiscal year 2010 the Commission made significant progress in a number of areas that we believe will result in achieving our goal of accountability over Commission assets and operations. For example, we gained visibility and accountability over the Commission's property accounts. We also drafted the first accounting manual that describes in detail the Commission's policies and procedures. While significant progress has been made to address gaps in the Commission's internal controls, more work is required before an effective internal control environment is in place that is compliant with OMB Circular No. A-123. The Commission is fully committed to the completion of this task and will take the steps necessary both to establish and maintain an effective internal control program in the future.

Deanna Tanner Okun
Chairman
November 15, 2010

Overview of Financial Results

Overview of Financial Statements

The Commission received a qualified opinion on its FY 2010 financial statements. The qualification is limited to undelivered orders and the related accounts payable and net position. The Commission received a disclaimer on its FY 2009 financial statements. Over the course of the last year, the Commission has significantly improved its internal controls over financial management. While the Commission has come a long way in a relatively short period of time, there are still challenges ahead. The Commission must complete remedial efforts and put lasting reforms in place, hire and train staff, and test compliance. The qualified opinion on the FY 2010 financial statements reflects the accomplishments of the last year; however, additional efforts are needed to achieve financial accountability.

The Commission agrees that internal controls are inadequate in the areas of (1) the recording and reporting of accounts payable, expenditures and obligations; (2) monitoring, analysis and oversight of financial operations, and (3) financial reporting. In addition, the Commission has insufficient resources and personnel with inadequate skills sets in the financial management area. While there has been notable improvement in documentation supporting financial transactions in the past year, improvements are recent and need to be tested, and gaps remain that need to be filled.

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

Assets: At the end of FY 2010, the Commission's balance sheet showed total assets of $20.4 million, an increase of $4.1 million or 25.1 percent over FY 2009. This increase was primarily due to a change in Fund Balance with Treasury of $3.7 million or 37.6 percent. The bulk of this change is found in the $2.5 million or 44.0 percent increase in unexpended appropriations. This was due to the increase to appropriations of $6.8 million or 9.0 percent with only a corresponding $4.1 million increase in appropriations used, significant increases in undelivered orders for service contracts, and $1.3 million for renovations that will begin early in FY 2011. The service contracts increase was due to a large number of new contracts that are funded through the first quarter of FY 2011, as well as a higher volume of obligations for existing contracts due to increased requirements. Property, Plant, and Equipment (PP&E), which did not increase significantly in FY 2010, accounts for most of the remaining increase in assets. Adherence to accounting policies applicable to PP&E led to a significant reclassification of expenses to assets in FY 2009. These reclassifications doubled PP&E in FY 2009 from $3.0 million to $6.1 million.

Liabilities: At the end of FY 2010, the Commission's total liabilities were $9.5 million, an increase of $1.7 million or 21.4 percent over FY 2009. The increase in total liabilities was primarily the result of increases in accrued expenditures with regard to both intragovernmental and private sector service providers. Intragovernmental accruals increased $0.4 million over FY 2009, and included human resources services from the Office of Personnel Management (OPM) and renovation services from the General Services Administration (GSA). Private sector service contractors with significant accrued expenditures covered services such as financial management, procurement, internal controls, human capital planning, application development and other IT services, and administrative temporary services. As a result, private sector payables increased $0.8 million, or 84.5 percent. In addition, there was an increase of $0.3 million or 9.0 percent in the balance of unfunded leave.

Net Position: The Commission's net position on the Balance Sheet and the Statement of Changes in Net Position was $10.8 million, an increase of $2.4 million or 28.5 percent above the FY 2009 ending net position of $8.4 million. The amount of unexpended appropriations increased by nearly $2.5 million, which more than offset a minor decrease in cumulative results of operations of approximately $0.1 million.

Financing sources from appropriations used during FY 2010 were $79.4 million and imputed financing sources totaled $4.1 million. The imputed financing consisted of $2.1 million in future retirement benefits and $2.0 million in future health and life insurance benefits, which will be paid to future retirees.

Summary of the Statements of Net Cost

The Commission's net cost of operations for FY 2010 was $83.6 million, an increase of $4.8 million or 6.2 percent over FY 2009. The increase in net cost of operations was the result of increased operating expenses due to increased salaries and benefits ($2.2 million), service contracting expenses ($1.1 million), rent and communications ($0.4 million), imputed financing costs ($0.8 million) and unfunded leave ($0.3 million).

Summary of the Statement of Budgetary Resources

The Statement of Budgetary Resources provides information on budgetary resources made available to the Commission and the status of these resources at the end of the fiscal year. For FY 2010, total budgetary resources were $83.4 million. This represents an increase of $7.6 million, or 10.0 percent, over the total budgetary resources of $75.8 million in FY 2009. Additionally, direct obligations were $81.4 million and net outlays totaled $78.1 million this year. This represents an increase in direct obligations of $6.0 million or 7.9 percent and an increase in net outlays of $3.7 million or 5.0 percent over FY 2009. In sum, the increase in direct obligations was similar to the increase in budgetary resources. Net outlays did not increase at the same rate of obligations, as significant obligations were incurred for renovation of newly acquired space and for service contracts that will not result in disbursements until FY 2011. As a result, the end of year net outlays rose by $3.7 million in FY 2010.

Limitations on 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 (FASAB) and OMB Circular No. A-136, *Financial Reporting Requirements*.

The principal financial statements have been prepared to report the financial position and results of operations of the Commission, pursuant to the requirements of 31 U.S.C. 3515(b). While the statements have been prepared from the books and records of the Commission in accordance with U.S. Generally Accepted Accounting Principles (GAAP) for federal entities and the formats prescribed by OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.

The statements should be read with the realization that they are for a component of the U.S. Government, a sovereign entity.

Management Controls and Compliance with Laws and Regulations

Federal Managers' Financial Integrity Act (FMFIA)

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:

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

In accordance with the Accountability of Tax Dollars Act of 2002 (ATDA), the Commission's financial information is audited annually to help assess if 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.

For FY 2010, the Commission evaluated the internal control over the effectiveness and efficiency of operations and compliance with applicable laws and regulations in accordance with OMB Circular No. A-123, *Management's Responsibility for Internal Control*. Based on the results of this evaluation, the Commission identified inadequate internal controls over financial reporting; insufficient monitoring, analysis and oversight of financial operations; inadequate controls over accounts payable, expenditures, and obligations; and insufficient resources and personnel with appropriate skill sets as material weaknesses in its internal control over financial reporting, the effectiveness and efficiency of operations, and compliance with applicable laws and regulations as of September 30, 2010. In addition, USITC did not comply with the requirements of 5 U.S.C. § 7905, *Programs to encourage commuting by means other than single-occupancy motor vehicles*, and the related guidance outlined in Appropriations Law.

The Commission is committed to the integrity of its financial information, including the principles and objectives of the FMFIA and the ATDA, the accounting principles approved by the FASAB, and the guidance provided in OMB Circular No. A-123 and OMB Circular No. A-136, *Financial Reporting Requirements*. In FY 2009, the Commission received a disclaimer on its financial statements because the Commission was not able to provide sufficient evidence to confirm its account balances. This inability highlighted systemic problems with the Commission's systems of internal controls. In order to demonstrate its commitment to financial accountability, the Commission has undertaken significant and comprehensive remedial actions to resolve each deficiency identified during the FY 2009 audit, such as improving documentation of sole source procurement and reviewing the commuter subsidy program, which are two areas where accountability could be significantly improved. As part of this process, the Commission has reviewed and strengthened its internal controls over financial management and operations to support improved accountability. That effort is ongoing and will require continued review, analysis, and updates of existing policies and procedures. That review will likely result in changes in a number of areas to more closely conform to financial management "best practices."

Information flows are detailed in seven cycle memoranda which present new financial management policies to address the deficiencies identified during the FY 2009 audit. These policies target practices where the Commission has been deficient, such as PP&E, accounts payable and accruals, expenditures, open obligation review, and FMFIA compliance. The Commission has developed detailed procedures to support its financial management policies and cycles. The new policies and procedures resulted in several major initiatives, including the compilation of PP&E files for all of the USITC's acquisitions, work-in-process accounting files for projects that may be capitalized once completed, and an increase in accrual efforts. The Commission has compiled its financial management policies and procedures into a comprehensive draft accounting manual that is scheduled to be completed in FY 2011.

In addition to developing and issuing comprehensive financial management policies and procedures, the Commission has concentrated on improving its internal controls over operations. The Commission has developed policies and procedures for collecting, analyzing, and reporting operational data to promote efficiency and integrity in its operations. These policies and procedures support the performance and accountability reporting cycle and help to link financial and operational management. The Commission has also provided financial management training to all senior managers.

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. See Section II of this report for details.

Federal Financial Management Improvement Act

Under the Federal Financial Management Improvement Act of 1996 (FFMIA), 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 (USSGL) at the transaction level. Since the Commission is not a CFO Act agency, it is not subject to the FFMIA. The Commission uses the Department of Interior's financial management system and that system is FFMIA compliant. Thus, the Commission's financial management system complied with the requirements of FFMIA and produced records in accordance with USSGL at the transaction level.

However, the Commission did not maintain a discrete set of vendor files with all obligation, expenditure, and payment documentation. As a result, Commission staff had to compile this information in order to calculate the year-end accruals and inefficiencies and costly processes were needed to do so. During the latter half of FY 2010, the Commission instituted appropriate transaction calculation actions, documented these transaction flows, and trained staff to be able to implement the correct procedures.

These actions represent significant progress in the Commission's efforts to return to achieving full financial accountability over its operations.

Federal Information Security Management Act

The Federal Information Security Management 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 2010, the Commission maintained its information security program by (1) providing annual information security awareness training to its user community, including contractors; (2) performing annual assessments on its major information systems, incorporating the testing of management, operational, and technical security controls; (3) maintaining the process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices; (4) 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 (5) 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 2009 Performance Audit*, OIG-AR-05-10. While all carryover findings from prior year reports have not yet been satisfied, OCIO acknowledges this as a critical priority. The outstanding issues were lack of progress in COOP planning and system contingency planning. In FY 2010, the Commission approved an initial COOP plan, and received a satisfactory evaluation from the Federal Emergency Management Agency (FEMA) regarding its plan and its participation in the Eagle Horizon exercise. The Commission also hired a COOP Program Manager, whose responsibilities include contingency planning. In FY 2011 and beyond, the Commission will refine its COOP capabilities and deploy its first phase of an alternate processing facility, with a commitment to continued deployments in succeeding years.

Accountability of Tax Dollars Act

ATDA 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, *Financial Reporting Requirements*, enables 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 Elimination and Recovery Act

The Improper Payments Elimination and Recovery Act of 2010 (IPERA), enacted on July 22, 2010, requires the development of policies and procedures for the prevention and detection of improper payments in the federal government. The Act expands on the Improper Payments Information Act of 2002 (IPIA), which requires an initial assessment to identify those programs that are susceptible to significant risk of improper payments. "Significant," as defined in the Act, means that in the preceding fiscal year, improper payments in the program or activity may have exceeded $10,000,000 of all program or activity payments made during that fiscal year reported and 1.5 percent of program outlays; or $100,000,000.

During FY 2010, the Commission developed and implemented a formal, written improper payment identification and recovery plan. The plan includes analysis of receivables, analysis of payroll transactions, and sample testing of both payroll and non-payroll disbursements to identify improper payments. See Section III, Other Accompanying Information, of this report for further details.

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. The Commission is still adapting to the new financial accounting system implemented in FY 2009. As a result, the Commission made late payments on 19 percent of all invoices, resulting in interest penalties of $1,716 in FY 2010. As knowledge of the Commission's accounting system develops, late payments and related interest penalties are expected to decrease.

Inspector General Act

The 1988 amendments to the Inspector General Act of 1978 established the Commission's Inspector General (IG). The IG 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.

- **Independent Auditor's Report on 2009 Financial Statements: OIG-AR-01-10 (November 6, 2009)**

An independent public accounting firm, working under the IG's supervision, performed an audit of the Commission's financial statements for FY 2009. Several issues relating to internal control of the Commission's accounting for PP&E, accounts payable, and financial reporting were identified. As a result of these limitations, the auditors were unable to obtain sufficient evidential support for the amounts presented in the balance sheet of September 30, 2009, and related statements of Net Cost, Changes in Net Position, Budgetary Resources, and the Statement of Custodial Activity. Because of matters discussed in the report, the scope of the work performed by the auditors was insufficient to enable them to express an opinion and they issued a disclaimer of opinion on the Commission's financial statements.

The Commission engaged the services of a certified public accounting and management consulting firm to work exclusively on evaluating existing controls, performing a risk assessment, establishing a working group, and designing and implementing a comprehensive internal control system that included, among other things, developing an accounting manual.

The Commission assigned staff to assist with documenting formal accounting policies and procedures; preparing, reviewing and analyzing quarterly financial statements; completing policies and procedures for an effective internal control program in compliance with OMB Circular No. A-123; completing budget submissions; and assisting cost center managers on budget reporting.

- **Independent Auditor's Report on Internal Control for 2009 Financial Statements: OIG-AR-02-10 (November 6, 2009)**

An independent public accounting firm was engaged to audit the financial statements of the Commission as of and for the fiscal year ended September 30, 2009. The auditors considered the effectiveness of the Commission's internal controls over financial reporting. The internal control tests were limited to those necessary to achieve the objectives described in the OMB Bulletin No. 07-04, "Audit Requirements for Federal Financial Statement," as amended. The report identified five certain deficiencies in internal control over financial reporting that were considered to be significant deficiencies. The auditors made five recommendations for strengthening the Commission's internal controls surrounding financial management. Management concurred with the findings and recommendations.

Formal documented financial management policies and procedures are now in place to help program and financial managers achieve results and safeguard the integrity of their programs. The Commission acquired contract services for an audit manager and financial manager to assist with reconciliations and to perform analyses and reviews of financial statements to ensure data are complete and accurate.

- **Independent Auditor's Report on Compliance with Laws and Regulations for 2009 Financial Statements: OIG-AR-03-10 (November 6, 2010)**

An independent public accounting firm conducted limited testing of the Commission's compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain other laws and regulations specified in OMB Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements,* as amended, including the requirements referred to in the FMFIA. The results of the tests disclosed an instance of "reportable" noncompliance that is required to be reported under Government Auditing Standards or OMB guidance. Because the auditors could not complete the audit, they 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 the audit, and, accordingly, an opinion was not expressed.

To address this problem, the Commission engaged the services of a certified public accounting and management consulting firm to develop a comprehensive system of internal controls for PP&E, Accounts Payable, Expenditures, and Obligations.

- **Management Letter for 2009 Financial Statements: OIG-ML-04-10 (December 8, 2009)**

An independent public accounting firm was engaged to audit the Balance Sheet of the Commission 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 FY 2009. Because of matters discussed in their Independent Auditor's Report, dated November 6, 2009, the scope of their work was not sufficient to enable them to express an opinion on FY 2009 financial statements. Certain matters involving internal control and other operational matters were noted and summarized in the management letter. Six recommendations were made to Commission management. Management concurred with the findings and recommendations.

The Commission developed written policies and procedures surrounding (1) accounting, (2) custodial activity, and (3) verification, validation, and supporting data for the performance measures reported in the PAR. These policies and procedures will help ensure that the Commission fully complies with applicable laws, regulations, and other authoritative guidance. A log was developed to monitor and review all manual journal vouchers. Evidence of the preparer and approver are documented through the use of signatures. Procurement training was provided to all agency staff involved in procurement actions and to all agency staff involved in the reviewing and approving of obligations and invoices throughout the agency.

- **Examination and Confirmation of the Balance on the PP&E Account on the 2009 Financial Statement: OIG-AR-07-10 (July 1, 2010)**

The OIG's final audit report was to confirm the balance of the PP&E account on the FY 2009 Balance Sheet. The IG identified three problem areas that contributed to the inability to validate the costs reported in the PP&E account. The IG audit report contains six recommendations for corrective actions by management.

To address this problem, the Commission conducted training for all agency staff responsible for making internal use software decisions and managing projects in the requirements of the Statement of Federal Financial Accounting Standards (SFFAS) No. 10, *Accounting for Internal Use Software*, and SFFAS No. 6, *Accounting for Property, Plant, and Equipment*. A data review of all procurements for the last six years was performed to identify and to determine whether any expenses should have been capitalized. Procedures for establishing and maintaining assets were implemented, a standard for documenting assets files was established, and training was provided to applicable agency staff on the proper procedures for maintaining asset files.

- **Audit of Internal Controls Related to PP&E Account OIG-AR-08-10 (July 7, 2010)**

The Office of the Inspector General conducted a review to confirm that the Commission The Office of the Inspector General conducted a review to confirm that the Commission had the appropriate internal controls in place to substantiate the balance of the PP&E account on the FY 2009 Balance Sheet. The IG identified three problem areas and made one recommendation, which assisted the Commission in correcting the issues.

To address this problem, the Commission established documented standards for acquisition files to support conclusions reached as to the best value for the federal government.

Debt Collection Improvement Act

The Debt Collection Improvement Act of 2004 requires agencies to review and report annually on their internal standards and policies regarding compromising, writing down, forgiving, or discharging debt. In FY 2010, the Commission referred no debts to Treasury.

Anti-Deficiency Act

The Anti-Deficiency Act prohibits federal agencies from obligating or expending federal funds in advance or in excess of an appropriation or apportionment. The Act also prohibits an agency from accepting voluntary services for the United States, or employing personal services not authorized by law, except in cases of emergency involving the safety of human life or the protection of property. The Commission did not have any Anti-Deficiency Act violations during FY 2010.

Buy American Act

The Buy American Act requires federal agencies to purchase goods, supplies, and materials that have been mined, produced, or manufactured in the United States of America. The Commission followed the requirements of this Act during FY 2010.

Economy Act

The Economy Act of 1933 allows the head of an agency or major organizational unit within a federal agency to place an order with a major organizational unit within the same federal agency or another federal agency for goods or services, if

1. amounts are available;
2. the head of the ordering federal agency or unit decides the order is in the best interest of the United States Government;
3. the federal agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and
4. the head of the federal agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.

During FY 2010, the Commission had interagency agreements with 12 agencies; Department of Health and Human Services, Department of Labor, Equal Employment Opportunity Commission, Library of Congress, Government Printing Office, General Services Administration, Department of Agriculture, Department of Homeland Security, U.S. Postal Service, Department of the Interior, Department of Commerce, and Office of Personnel Management.

Performance Section

Introduction

The Performance Section describes the Commission's performance during FY 2010 and, where appropriate, during the past five fiscal years. It constitutes the agency's annual program performance report, as provided for in the Results Act.

Each of the agency's five Strategic Operations (Operations) is presented separately. The Operations sections identify each of the agency's performance goals, corresponding annual goals (targets) for FY 2010 and FY 2011, whether the agency met its FY 2010 goals, and if not, what the Commission is doing to address the situation. In some instances, annual goals have more than one distinct target. These targets are reported separately. The sections also identify annual goals discontinued after FY 2010 and goals for FY 2011.

As discussed below, Commission personnel used a number of tools and methods for measuring the agency's performance in FY 2010. For example, the Foresee Government Satisfaction Index (Foresee), an automated survey tool, was used to measure user satisfaction levels with portions of the Commission's Web pages related to several Operations. Foresee uses respondents' answers to a series of questions to derive a satisfaction score based on the American Customer Satisfaction Index; respondents can also provide open-ended feedback as part of the survey. In addition, Commission staff used reports generated by the agency's Electronic Document Information System (EDIS) to measure the speed with which investigation documents are made available to the public.

Strategic Operation No. 1: Import Injury Investigations

Strategic Operation No. 1 (Operation 1) covers the conduct of the Commission's antidumping (AD) and countervailing duty (CVD) investigations and reviews under Title VII of the Tariff Act of 1930, as well as global safeguard and market disruption investigations carried out 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 NAFTA Implementation Act; investigations under section 129(a)(4) of the URAA; and the litigation of challenges to the Commission's determinations.

The seventh edition of the Commission's Strategic Plan established the following strategic goal for this Operation:

Support a rules-based international trading system by producing high-quality and timely import injury determinations based on the following:

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

The agency's workload related to original title VII investigations declined somewhat from FY 2009 to FY 2010, as institutions of preliminary phase investigations fell significantly, although institutions of final phase investigations increased by 50 percent. Completions of preliminary phase investigations reached a period high in FY 2008 and decreased in FY 2009 and FY 2010, while completions of final phase investigations have been relatively stable over the past three years (table 1-1). Both institutions and completions of five-year (sunset) reviews increased as the Commission began instituting the third round of "transition" order reviews. The Commission did not conduct any global or China safeguard investigations in FY 2010.

The FY 2010 monthly investigations activity level indicates that the Operation 1 workload was generally higher than in FY 2009, as the relatively large number of petitions filed in FY 2009 increased the number of final investigations instituted in FY 2010. Active cases were at or above 20 cases for two months in FY 2010, which is the highest level in the past four fiscal years (figure 1-1). Performance results for FY 2010 are discussed in detail below.

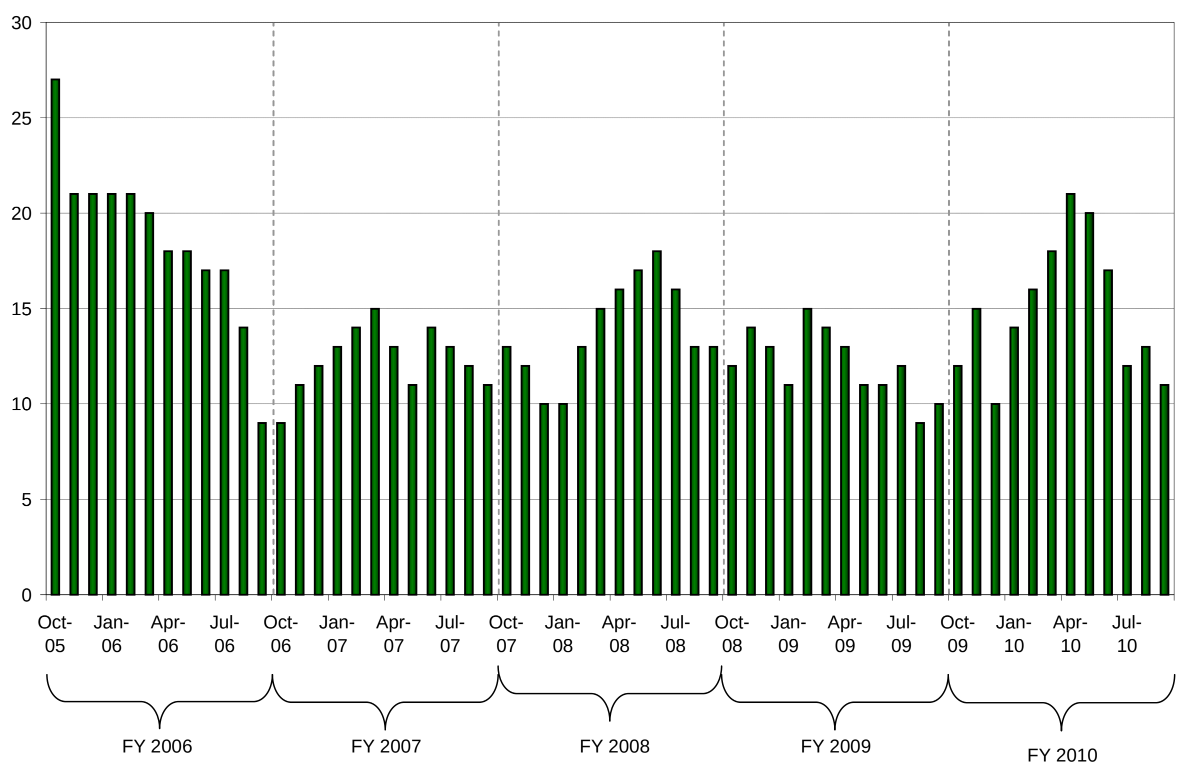
Table 1-1: Summary of import injury investigations, FY 2006–FY 2010

Type and status	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Instituted:					
Preliminary Title VII[a]	5	13	13	15	3
Final Title VII[a]	4	6	16	8	12
Expedited sunset[b]	7	6	5	3	8
Full sunset[b]	11	7	6	8	9
Other[c]	1	2	3	2	0
Total	28	34	43	36	32
Completed:					
Preliminary Title VII[a]	6	9	18	10	8
Final Title VII[a]	6	3	12	13	11
Expedited sunset	13	6	4	4	8
Full sunset	22	10	7	5	10
Other[c]	3	3	2	3	0
Total	50	31	43	35	37

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 five-year (sunset) reviews 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 2005 through September 2010



Source: INV.

FY 2010 Performance

The seventh edition of the Strategic Plan established four performance goals for this Operation, and the FY 2010 Performance Plan set corresponding annual goals. The performance results for FY 2010, discussed below, demonstrate that the Commission met or exceeded all specific annual goals established for the year.

Specifically, investigative records were reported to be sufficient in the vast majority of instances, and all draft import injury investigation and litigation documents were internally reviewed. 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. Improvements to the Web site, which were launched in FY 2009, resulted in higher satisfaction numbers for the Import Injury Web page and the percentage of documents available on EDIS improved.

Performance goal no. 1: ***Improve the quality and efficiency of the investigative process by conducting internal reviews, including review of draft investigation and litigation documents***		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Achieve 80% positive Commissioner comments on sufficiency of the information in the record.	Written feedback from Commissioners and their aides concerning staff's efforts to compile the record and to identify, explain, and analyze important factual and legal issues is positive at least 80% of the time.	***Target met:*** feedback was 97% positive.
Ensure that staff reports, legal issues memoranda, opinions, and briefs are produced with review by and input from all appropriate investigative team members.	Goal was dropped for FY 2011.	***Target met:*** 100% of documents were circulated for review.

Record sufficiency

During FY 2010, the Commission met its goal regarding record sufficiency. This annual goal is intended to ensure that an appropriate investigative record is compiled for every investigation. Commissioners were polled concerning the completeness, reliability, and usefulness of data in all import injury investigations conducted during the year. For FY 2010, the goal of 80 percent positive Commissioner comments was surpassed, as 97 percent of such comments were positive.

In previous years the Commission has also consistently met this goal. During FY 2006–FY 2009, the Commission evaluated its processes to improve the quality and efficiency of the conduct of Operation 1 investigations and carried out several initiatives in support of this goal. For example, in FY 2008, the Commission published a notice in the *Federal Register* seeking comments on proposed changes to the conduct of five-year reviews. Proposed changes included (1) shortening the period available to interested parties to respond to questions in the notice of institution, (2) seeking additional information from interested parties through the notice of institution and, in certain circumstances, (3) seeking information from purchasers during the adequacy phase of five-year reviews. After examining the resulting comments, the Commission put all three proposed changes into effect. These improvements now provide the Commission with a more complete record upon which to make adequacy determinations. Another initiative was launched during FY 2009, when 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. This feedback process enhanced the efforts of the Offices of the General Counsel and Investigations to monitor Commissioner satisfaction in import injury investigations.

Document review and team participation

The Commission met its goal of document review and team participation in FY 2010. This review ensures that the Commission consistently produces high-quality import injury determinations within the statutory time frame. During FY 2010, all draft reports (prehearing and final), legal issue memos, and determinations were circulated for review to appropriate investigative team members and senior staff.

Results for FY 2010 are consistent with those of the previous five years, during which this goal was met (table 1-2). In prior years, this goal has included a team participation element with regard to opinion-writing meetings; this element was met in the past and staff continued to actively participate in the opinion review process in FY 2010. This goal is not included in the 2011 Performance Plan. The Commission has met this goal in every year and the process of circulating documents for internal review has become firmly imbedded into Operation 1 procedures. Thus, the Commission has determined that the use of this goal as a measurement tool is no longer necessary.

Table 1-2: Number of documents circulated for review, FY 2006–FY 2010[a]

Item	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Draft prehearing and final reports	71	47	61	53	59
Draft legal issues memoranda	48	30	42	36	37
Draft opinions	48	30	44	37	37
Draft briefs[b]	12	23	19	15	10

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.

[b] Litigation support to the executive branch is addressed under Operation 5. For completeness, however, briefs in such litigation are also included in this table and in Table 1-3. In FY 2010, 2 of the 10 briefs were prepared to assist USTR in litigation at the World Trade Organization (WTO).

Performance goal no. 2: Meet statutory, court, and administrative deadlines		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Submit all reports, determinations, memoranda, draft opinions, and briefs on time.	Submit all reports, determinations, memoranda, draft opinions, and briefs on time.	***Target met.*** 100% were on time.

Document submission

During FY 2010, the Commission met all of its statutory and administrative deadlines, as 100 percent of determinations were issued on or before their deadlines. Timely submission of documents ensures compliance with applicable laws and court orders. As seen in table 1-3, 37 determinations, staff reports, legal issues memoranda, and opinions were issued in a timely manner, while 22 prehearing reports and 10 briefs were also issued on time.[4]

During the past four previous fiscal years (FY 2006–FY 2009), the Commission likewise met all of its statutory and administrative deadlines, with one exception. During FY 2009, 35 of 36 legal issues memoranda met established administrative deadlines; the one exception was issued one day late.

Table 1-3: Number of documents issued on time, FY 2006– FY 2010[a]

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

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.

[b] Number includes briefs that were prepared to assist USTR in litigation at the WTO. In FY 2010, two such briefs were prepared.

Performance goal no. 3: Improve the development of investigative records		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Make progress on improving methods of gathering and processing investigative data, taking into account results of survey of investigation participants regarding investigative procedures.	Make progress on improving methods of gathering and processing investigative data, such as streamlining questionnaires.	***Target met:*** based on input from outside parties, Commissioners, and internal staff review, specific improvements have been implemented during the period.

Investigative data collection and processing

During FY 2010, the Commission met its performance goal of improving the development of investigative records. This goal is intended to ensure that import injury determinations are based on an effective exchange of information between the Commission and interested parties and that procedures are fair. Specific initiatives include collecting additional information during the adequacy phase of five-year sunset reviews, clarifying language and restructuring questions in generic questionnaires, simplifying data requests, increasing use of official import statistics, and increasing use of compact disks (CDs) for questionnaires.

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

Improving the questionnaires used in import injury investigations is a particular focus. Regular internal staff meetings are held to evaluate the questionnaires; interested party comments containing suggestions to improve questionnaires are incorporated into case-specific questionnaires and evaluated for broader use in the generic questionnaires. In addition, using CDs for questionnaires in more investigations benefits both questionnaire recipients, as CDs can make completion of questionnaires easier, and the Commission, as sending out CDs can increase the response rate, improve accuracy of data entry, and reduce paper use.

As noted earlier, the Commission also began to collect additional information for review investigations 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. In addition, during FY 2010, the Commission implemented a process of internal post-hearing meetings with staff and Commissioner offices to discuss issues raised at the hearing in an effort to ensure that data collection and analysis efforts provide the most complete information for determinations.

These improvements build on several initiatives previously launched by the agency to support effective data collection and processing over the past five fiscal years. During the period, the Commission conducted regular reviews of its data procedures. 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 and FY 2010, the Commission continued to examine generic questionnaires used in original and review investigations to ensure that questions and data requests were clearly presented and that ambiguous or unnecessary questions were eliminated.

Performance goal no. 4: Improve the scope, quality, and transparency of information regarding investigations, both to investigative participants and the public		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Achieve 1 point improvement over FY 2009 level of satisfaction reported by users of USITC import injury Web pages.	Achieve 1 point improvement over FY 2010 level of satisfaction reported by users of Commission import injury Web pages.	***Target met:*** customer satisfaction score is 65, which is a 3 point increase over the FY 2009 score of 62.
Make available 75% of documents filed on EDIS within 24 hours, and 85% within 48 hours.	Make available 80% of documents filed on EDIS within 24 hours, and 90% within 48 hours.	***Target met:*** 92.1% of documents available within 24 hours; 98.6% available within 48 hours.
	Staff conducts outreach to industry groups and others to ensure they understand Commission capabilities and process.	

During FY 2010, the Commission met its goal of improving the scope, quality, and transparency of information regarding investigations.[5] This performance goal is intended to ensure that information on

[5] The Commission added the goal of conducting outreach in its FY 2011 Annual Performance Plan. This goal is intended to ensure that the Commission is providing information to external groups and individuals such that the import injury process is easily understood.

the import injury investigation process is easily accessible to interested parties and the general public. The Commission makes a variety of materials related to import injury investigations available in paper form, as well as on its Web site, consistent with established guidelines. Upgrades to the Commission's Web site in FY 2009, such as deployment of a new search engine and an interface to the entire collection of USITC publications, helped improve the performance of the Import Injury Web pages.

During FY 2010, the agency continued to use survey results to measure visitors' level of satisfaction with the Import Injury Web pages. The satisfaction level for FY 2010 was 65, which is 3 points above the FY 2009 level and 2 points above the FY 2010 annual goal. In addition, during FY 2010, the Commission began the process of updating the five-year sunset review database, which will improve internal efficiency in posting documents and improve usability for external customers.

During FY 2006–FY 2009, the Commission generally met its goals in providing information to participants and the public. The Commission has conducted regular reviews of its Web site over the last several years, and in FY 2005 the Commission launched a redesigned public Web site. This project included substantial expansion of content related to import injury investigations and improvement in navigating this content. Separate sections of the Web site are devoted to AD/CVD investigations and reviews and safeguard investigations; these sections include links to publications and other documents of general interest to the public, including relevant statutes, the Commission's Rules of Practice and Procedure, and The Antidumping and Countervailing Duty Handbook (USITC Publication 4056, December 2008). In addition, information on outstanding AD/CVD orders and statutory timetables, as well as links to EDIS, the five-year (sunset) reviews Web page, and Web sites of related government agencies are provided.

User satisfaction with Import Injury Web pages

Judging by the Foresee satisfaction scores for the Import Injury Web pages, performance results have fluctuated, as shown in the tabulation below. In FY 2010, the agency met its performance goal as the satisfaction score increased by three points to 65. As noted, the Commission deployed a new Web site in FY 2009, and ensuing intermittent problems with links to documents may be reflected in FY 2009 and 2010 results. In FY 2009 and FY 2010, visitors to the Import Injury Web page generally reported higher scores for the Web page content and lower scores for search and navigation.

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Foresee satisfaction score for Import Injury Web pages	68.5	71	66.2	62	65

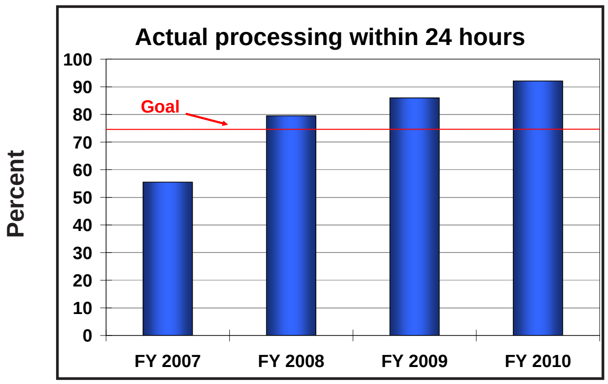
Document processing and availability

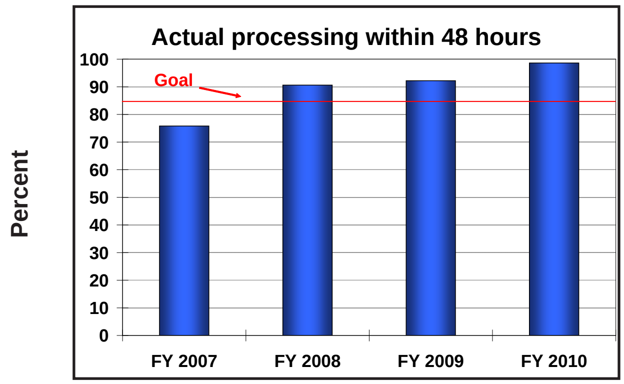
During FY 2010, the Commission met its goal with regard to document processing and availability. Several upgrades in the functioning of EDIS and in the business process for handling documents significantly improved processing rates: 92.1 percent of import injury documents were processed and posted on EDIS within 24 hours of filing; 98.6 percent within 48 hours. Enhancements to EDIS included introduction of bar code scanners at the Dockets Desk and more detailed tracking of documents through the processing lifecycle. A complete process analysis and documentation of procedures also enhanced internal controls and processing efficiency.[6]

[6] These statistics and those shown in figure 1-2 differ slightly from those reported in earlier years because technical enhancements to the system allowed the Commission to improve the quality of the reports generated by the system.

During the past five years, the Commission has met its objective of providing an electronic method of information exchange between the Commission and parties via EDIS. However, prior to FY 2008 the agency was less successful in meeting its goals of making documents available within specific time frames. In FY 2007, the agency redesigned its business process by implementing a case management system to more efficiently process investigation documents and to make them available to the public. The time between document filing and availability on EDIS was shortened substantially with this new business process. The percentage of documents released within a 24-hour time frame rose from 55.5 percent in FY 2007 to 86 percent in FY 2009 (figure 1-2). The percentage of documents released within a 48-hour time frame rose from 75.8 percent in FY 2007 to 92.2 percent in FY 2009.

Figure 1-2: Document availability, by year, for October 2006 through September 2010





Source: OAD, Docket Services.

Note: Represents the time from the filing of a document to its becoming available in the EDIS system.

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. 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 in a timely manner that can be successfully defended during judicial appeals.

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

The seventh edition of the Commission's Strategic Plan established the following strategic goal for this Operation:

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

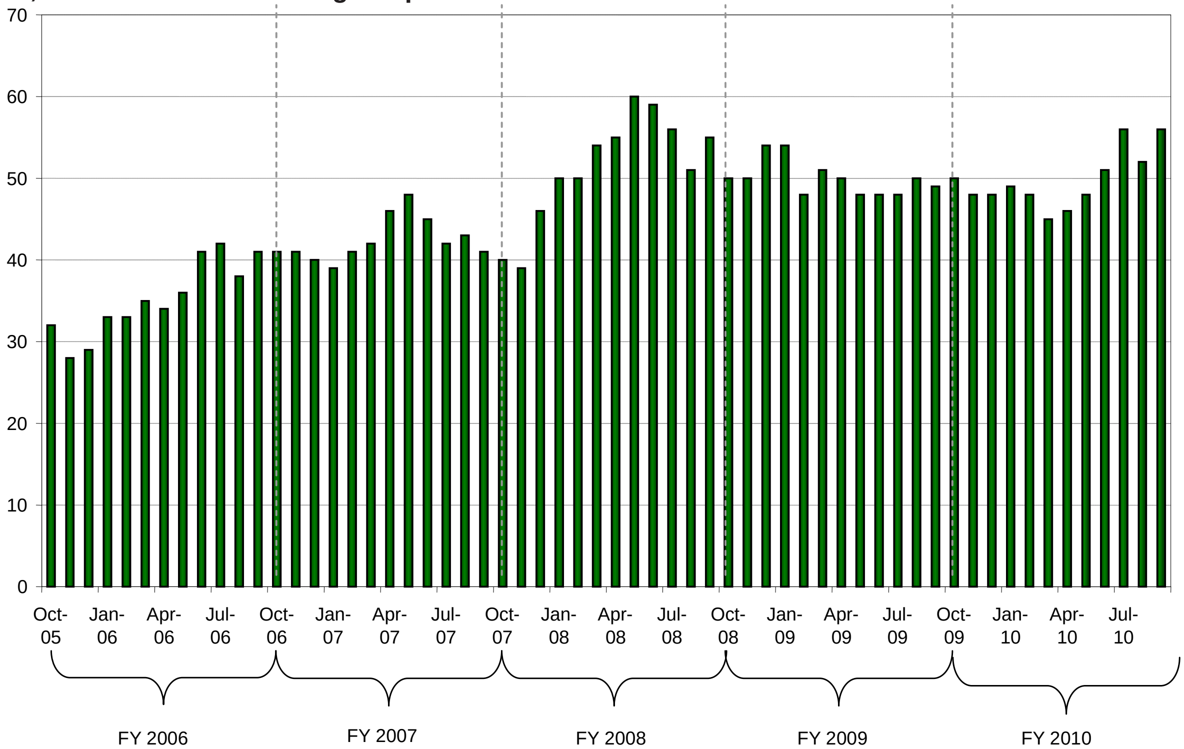
During FY 2010, both the level of new section 337 complaint filings and the number of matters active during the course of the year set new records. Specifically, 51 investigations were instituted based on new complaints alleging violations of the statute, and 7 ancillary proceedings related to prior section 337 investigations were commenced during the year. In total, 103 investigations and ancillary proceedings were active at the Commission during FY 2010. Thus, the substantial growth in the level of section 337 filings continued as it has in recent years, with the number of new complaints in FY 2010 nearly five times that of FY 2000. This year, the number of both new section 337 matters and active proceedings rose above the earlier record levels reached in FY 2008 by 15 percent. Table 2-1 and figure 2-1 show the workload trends for investigations and ancillary proceedings in FY 2010. Performance results for FY 2010 are discussed in detail below.

Table 2-1: Summary of intellectual property-based import investigations and ancillary proceedings, FY 2006–FY 2010

Status	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Instituted	40	33	50	36	58
Completed	30	37	38	39	52

Source: OUII.

Figure 2-1: Intellectual property-based import investigations and ancillary proceedings active, by months, for October 2005 through September 2010



Source: OUII.

FY 2010 Performance

The Commission established four performance goals and corresponding annual goals for this Operation. FY 2010 was an extremely busy year in the section 337 area, one in which the docket continued to be dominated by complex patent-based matters, often involving computer and telecommunications technologies. Nonetheless, 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 2010 increased to 18.4 months, compared to an average of 17.9 months in FY 2009 and 13.5 months during the three-year period preceding the lifting of statutory time limits by the URAA in December 1994. With regard to ancillary proceedings, an advisory opinion proceeding and two enforcement proceedings were completed this year well ahead of the 12-month performance goal. The other enforcement proceeding that concluded this year, which was delayed due to scheduling difficulties stemming in part from a related court proceeding, was completed in 21.3 months.

Another important goal, related to EDIS performance, is noted in the section of this report pertaining to Operation 1. In FY 2010, the Commission substantially exceeded its goals for making public documents available on the Commission's Web site soon after filing. Also, the level of satisfaction reported by users of the Commission's Intellectual Property Web pages increased by 7 points this year, well beyond the annual goal of a 1 point improvement. This significant rise in user satisfaction indicates that the deployment of a re-designed Commission Web site in July 2009, along with various post-deployment enhancements to the Web site in FY 2010, has succeeded in assisting users.

Another important Commission goal has been facilitating the enforcement of exclusion orders. During the past year, the Commission provided U.S. Customs and Border Protection (Customs) with periodic scheduling information regarding section 337 investigations, and, in accordance with the annual performance goal, the Commission crafted its third survey regarding the effectiveness of section 337 exclusion orders and transmitted survey questionnaires to holders of outstanding exclusion orders. The goal regarding the time for the issuance of seizure and forfeiture orders in response to notification letters from Customs was met in all but one instance in FY 2010.

Finally, to enhance its ability to schedule timely hearings in multiple section 337 investigations so as to avoid extending target dates, the Commission signed a lease and took possession of space in August of 2010 for an additional courtroom. This increases the number of courtrooms from two to three. This action, combined with the Commission's expansion of the ALJ corps from four to six in recent years, should help the agency to meet the goals that it has established for this Operation.

Performance goal no. 1:
Meet statutory and key administrative and court deadlines, conclude section 337 investigations expeditiously, and reduce the average time to conclude ancillary proceedings

FY 2010 annual goal	FY 2011 annual goal	FY 2010 results
Institute investigations; set target dates; file TEO and final IDs, TEO and final determinations, and court briefs on time.	Institute investigations; set target dates; file TEO and final IDs, TEO and final determinations, and court briefs on time.	T***arget met:*** 100% of investigations instituted, target dates set; TEO and final IDs, TEO and final determinations, and court briefs filed on time. (Only 1 TEO in FY 2010; determinations issued on time.)
Conclude investigations into alleged section 337 violations within time frames that are consistent with the URAA.	Conclude investigations into alleged section 337 violations within time frames that are consistent with the URAA.	***Target not met:*** Average length increased to 18.4 months as compared to 17.9 months in FY 2009 and 13.5 months in three-year period before the URAA was enacted in 1994.
Ensure that the average length of ancillary proceedings is— (1) modification: 6 mos. (2) advisory: 12 mos. (3) enforcement: 12 mos. (4) consolidated ancillaries: 15 mos.	Ensure that the average length of ancillary proceedings is no more than— (1) modification: 6 mos. (2) advisory: 12 mos. (3) enforcement: 12 mos. (4) consolidated ancillaries: 15 mos.	(1) Modification— not applicable for FY 2010 (2) ***Target met*** for advisory opinion proceedings. (3) ***Target met*** for two of three enforcement proceedings, such that average length for these proceedings was 11.2 months. (4) Consolidated ancillaries—not applicable for FY 2010

Statutory and administrative deadlines

Besides deadlines imposed by the statute itself, the Commission has identified certain key administrative deadlines relating to investigations brought under section 337 that it tracks each year to ensure that proceedings are conducted in an expeditious and procedurally sound way. These include deadlines for instituting investigations, for setting target dates and issuing temporary relief determinations within statutorily required time frames, for the ALJs to issue all final IDs, and for the Commission to issue all final determinations in accordance with Commission rules and the established target dates for each investigation. This annual goal also requires the timely filing of all court briefs relating to section 337 investigations. As indicated above, the Commission met all statutory and key administrative deadlines in FY 2010, and filed all briefs in litigation concerning section 337 investigations on time.

Between FY 2006 and FY 2009, the Commission met its statutory and key administrative deadlines with relatively few exceptions. In FY 2006, all deadlines were met except that a target date in one investigation was established more than 45 days after commencement of the investigation. In FY 2007, virtually all deadlines were met except that two target dates were not established on time and the deadlines for the issuance of four final IDs were missed by the ALJs. 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 in FY 2007 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 also issued virtually all documents on time and met its deadlines, except for short delays in the establishment of target dates in three investigations. In FY 2009, the Commission met its deadlines and issued all documents on time. In addition, the Commission filed all briefs in litigation concerning section 337 investigations on time during FY 2006–FY 2009.

Length of investigations

Expeditious adjudication of intellectual property-based disputes, particularly those involving patented technologies, is of great importance to IPR holders. Before the URAA was passed, section 337 contained 12- to 18-month time limits for the completion of investigations. Although these time limits were removed from the statute by the URAA, the Commission has sought, in accordance with the amended statute, to complete section 337 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. The annual goal regarding the length of investigations reflects the Commission's continuing commitment to expeditious adjudication of section 337 complaints even as the proceedings become more complex.

Table 2-2 provides summary information regarding the length of investigations during each of the last five years.

In FY 2010, with the exception of one anomalous investigation discussed below, the average time for completion of an investigation on the merits rose by half a month, to 18.4 months, as compared to 17.9 months in FY 2009. Of the 21 investigations included in this calculation, the 4 longest-running took between 23.5 and 25.4 months to complete. Various factors contributed to the length of these investigations: one was stayed pending the outcome of an appeal of a related federal court case; one was stayed pending Commission review in a related investigation; and two were extended to allow the presiding ALJs to conduct Commission-ordered remands.

Another investigation was subject to a two-month extension for review of a remand determination. The one investigation that is not included in the average took 79 months to complete. This investigation was exceptionally long because a third party refused to provide relevant information to the Commission, necessitating the enforcement of a subpoena for the information. The Commission's efforts to enforce its subpoena included two cases litigated in district court and one appellate proceeding. The third party ultimately turned over the information about 5.5 years after the subpoena was issued. The investigation was also extended by about 4.5 months so that the ALJ could complete a Commission remand.

Table 2-2: Length of investigations, FY 2006–FY 2010

		Completion time (in months)		
Fiscal year	**Investigations completed**[a]	**Shortest**	**Longest**	**Average**
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
2010	22 (1 instituted in 2004, 1 in 2007, 11 in 2008, 8 in 2009, 1 in 2010) [b]	6.4	25.4	18.4

Source: OUII

[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.

[b] One investigation that concluded in FY 2010 had been pending since 2004. As discussed in the text below, because of the anomalous length of this investigation, it was not included in calculating the average length of investigations that concluded during FY 2010.

While there was only a small increase in the length of investigations in which a final decision of violation or no violation was reached this year, the time taken to complete section 337 investigations has increased substantially compared to the pre-URAA period. This increase has occurred in the wake of steep and continuing expansion in the section 337 caseload in the intervening years. In FY 2006, the average time for the completion of investigations that were decided on the merits was less than 15 months. This figure rose to 16.6 months in FY 2007, 16.7 months in FY 2008, and 17.9 months in FY 2009. In both FY 2006 and FY 2008, the number of new section 337 matters 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 (27). 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 FY 2010 the caseload climbed even higher, with the commencement of 58 new investigations and ancillary proceedings and a total of 103 proceedings pending during the course of the year. Other factors contributing to the increased length of section 337 investigations include the number of patents asserted, the complexity of the technology at issue, and the number of respondents named in many investigations, all of which have been rising, on average, over the past 5 years.

Retirements among the Commission's ALJs, along with concomitant transfers of pending cases, and difficulties encountered in recruiting replacements for retiring ALJs have contributed to the increase in the length of investigations. Indeed, during most of FY 2008, as the number of new investigations grew at an unprecedented rate, the Commission was operating 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; hired a sixth ALJ, who began work in the first quarter of FY 2009; and arranged for the temporary use of additional courtroom space at the U.S. District Court for the District of Columbia beginning in 2009 to alleviate courtroom scheduling conflicts. When viewed against the unprecedented influx of new complaints in both FY 2008 and FY 2010, the modest increase—only one-half month—in the average length of investigations decided on the merits in FY 2010 suggests that actions taken to expand the ALJ corps and enhance administration within the Office of ALJs are helping to curb further lengthening of section 337 investigations.

Also, in an effort to address the demands of the increased caseload, during FY 2009 the Commission established a pilot mediation program for section 337 investigations. The program was designed to facilitate settlement of a greater number of investigations at a relatively early stage, as well as help the Commission evaluate 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. In FY 2010, the Commission converted the section 337 mediation pilot into an ongoing program. Several mediations were conducted under the program and feedback from the private bar was positive about the process. The mediation program offers a confidential, quick, inexpensive, and flexible alternative for resolution of the cases or the narrowing of litigation issues, with no risk to the parties for attempting to find a solution. As law firms become more aware of the program, mediation is more likely to become an accepted means of resolving some section 337 investigations.

Length of ancillary proceedings

This performance goal focuses on the length of time it takes the Commission to complete advisory opinion, modification, and enforcement proceedings, which play an important role in the enforcement of Commission remedies. While target dates are statutorily required for original investigations, these kinds of ancillary proceedings are not subject to target dates. The Commission therefore adopted timeliness goals for ancillary proceedings, beginning in FY 2004, so that they would not become unduly long. A 6-month goal was set for modification proceedings, a 12-month goal for both advisory opinion and enforcement proceedings, and a 15-month goal for consolidated ancillary proceedings, which involve two or more ancillary proceedings in the same investigation.

The Commission completed three ancillary proceedings in FY 2010 considerably ahead of the 12-month performance goal. One enforcement proceeding was completed in 9.2 months and another in 3 months; an advisory opinion proceeding was completed in 1.5 months. The other enforcement proceeding completed this year took 21.3 months to complete, because of scheduling difficulties tied in part to external factors, in that a court decision concerning the Commission's underlying determination to issue its remedy was imminent. One modification proceeding, one request for an advisory opinion, and one enforcement proceeding remained pending at the conclusion of FY 2010.

Ancillary proceedings that concluded between FY 2006 and FY 2008 were completed within the time frames set for such proceedings. Specifically, the Commission concluded two consolidated enforcement and advisory opinion proceedings in FY 2006, one on the merits and the other by settlement, both considerably ahead of the 15-month goal set for this type of proceeding. In FY 2007, the Commission concluded an enforcement proceeding based on a settlement agreement approximately 5 months after it was commenced. During FY 2008, the Commission concluded two advisory opinion proceedings well before the 12-month completion goal.

In FY 2009, the Commission completed one enforcement proceeding in 18.3 months, due to complications involving a court reversal and remand of the Commission's decision to enter the exclusion order in the underlying investigation. A 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 completed in FY 2009, in 15.5 and 13.8 months, respectively. These proceedings were consolidated, and this consolidation was responsible, in part, for exceeding the 12-month goal for the first enforcement proceeding. In addition, the ALJ recommended large penalties in these consolidated proceedings, which necessitated careful review by the Commission.

Performance goal no. 2: Improve the scope, quality, and transparency of information regarding investigations provided both to investigative participants and the public		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Achieve 1 point improvement over the FY 2009 level of satisfaction reported by users of USITC intellectual property infringement Web pages.	Achieve 1 point improvement over the FY 2010 level of satisfaction reported by users of Commission intellectual property infringement Web pages.	***Target met:*** users' satisfaction level increased by 7 points over the FY 2009 score (63 versus 56).
Make 75% of documents filed on EDIS available within 24 hours, and 85% within 48 hours.	Make 80% of documents filed on EDIS available within 24 hours, and	***Target met:*** 89.7% of documents were posted on EDIS in 24 hours, and 97.0% in 48 hours.
90% within 48 hours.	Staff conducts outreach to bar groups and others to ensure they understand Commission capabilities and process.	

User satisfaction with Operation 2 Web pages

In FY 2010, the Commission continued to use the Foresee survey tool to measure user satisfaction with the Operation 2 portion of the agency's Web site. The Commission examined feedback from survey respondents who indicated they had visited the Intellectual Property Infringement and Other Unfair Acts Web pages. Based on these responses, in FY 2010 the Commission exceeded its goal of increasing the customer satisfaction score for users by 1 point over the previous year. During FY 2010, the agency achieved a satisfaction score of 63 for users who visited the Intellectual Property Infringement section of the Web site, improving on the FY 2009 score of 56 by 7 points.

The Commission's Web site has not always had a strong record of customer satisfaction so the recent improvement is significant. During FY 2008, the Commission visitors' level of satisfaction with the section 337 Web pages was 53.5, a drop from the satisfaction scores obtained in FY 2006 and 2007, and did not meet the performance goal of a 1 point improvement in the score. But in FY 2009, the agency took measures to improve the entire Commission Web site and users' level of satisfaction increased.

The improvement in user satisfaction in FY 2009 and FY 2010 is attributable to several factors, most notably the deployment of a redesigned version of the Commission Web site in July 2009. Four other improvements—a major post-deployment configuration change that significantly improved the Web site's performance, the deployment of a new search engine in February 2010, the implementation of a comprehensive publications database, and the deployment of a re-engineered version of EDIS in March 2009—also contributed to the rise in satisfaction. In addition, the Section 337 Investigational History database was regularly updated and supplemented through FY 2010, and the Section 337 Frequently Asked Questions pamphlet was updated in an effort to continually provide up-to-date information to users. Additional efforts are currently underway to continue this trend, including deploying a new calendar function and improving a number of the site's navigation features, along with fine-tuning the results of the search engine.

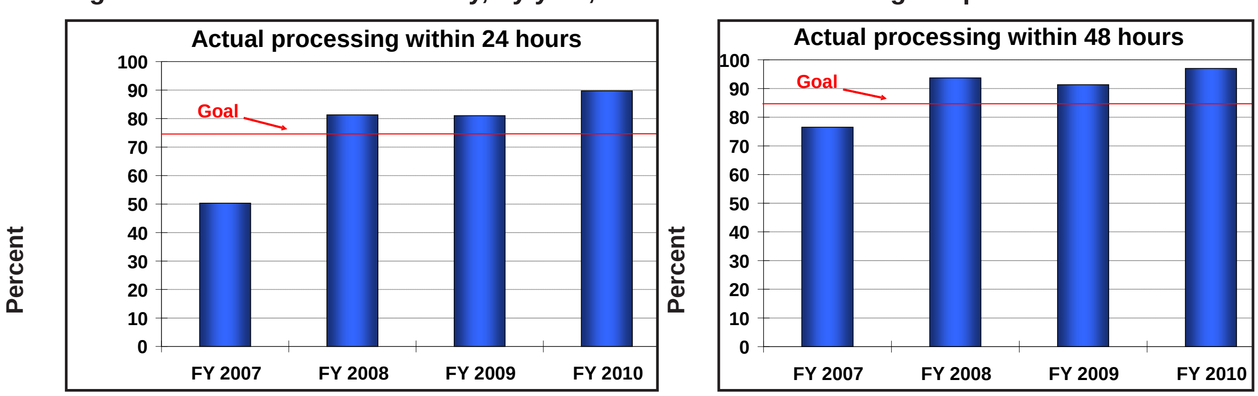
Several other important improvements were made before FY 2009. In FY 2005, the main section 337 Web page was substantially updated with links to the Intellectual Property Rights Branch of Customs, and the Commission's section 337-related notices were added. During FY 2007, the Commission created and 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 prosecution histories and other lengthy patent-related materials that are required to be submitted with section 337 complaints. In FY 2008, the listing of *Federal Register* notices in current section 337 investigations was reformatted to make it easier for the public to search and locate such notices, a link to the amended procedural rules for section 337 proceedings was added to the section 337 Web pages. An updated version of the popular *Section 337 Frequently Asked Questions* pamphlet was posted on the Web site in FY 2009.

Document processing and availability

Operations 1 and 2 contain similar performance goals relating to the Commission's handling of documents in EDIS. As noted in the earlier discussion of Operation 1, the Commission provides an electronic option for filing documents with the Commission and gives real-time public access to information and updates via the Internet. The annual goal setting forth time frames for the availability of documents on EDIS is intended to ensure that both investigation participants and the public have quick access to information pertaining to section 337 proceedings and relates directly to the general goal of conducting transparent investigations. In FY 2007, the Commission introduced a case management paradigm for handling investigation documents in order to more efficiently process them and make them available to the public. In FY 2008, the new case management system was instituted and processing goals were established, requiring that 75 percent of public documents be made available on EDIS in 24 hours and 85 percent be made available in 48 hours.

In FY 2010, several process changes in the functioning of EDIS and the business process for handling documents yielded significant improvements in processing rates. The 24-hour processing rate rose to 89.7 percent and the 48-hour processing rate to 97.0 percent for Operation 2 documents, substantially exceeding performance goals (figure 2-2). The series of enhancements deployed to EDIS included introduction of bar code scanners at the Dockets Desk and more detailed tracking of documents through the processing lifecycle of documents. A complete process analysis and documentation of procedures also enhanced internal controls and processing efficiency. EDIS also met its availability performance goal by maintaining an uptime of 99.98 percent. This was a new metric added for FY 2009, and it reflects the fact that EDIS 3.0, which was deployed in that year, is a more reliable and stable system, one that provides users with more dependable access to documents.

Figure 2-2: Document availability, by year, for October 2006 through September 2010



Source: OAD, Docket Services.

As shown in figure 2-2, as a result of the implementation of the case management paradigbeginning in FY 2007, in FY 2008 the agency significantly shortened the time from filing to availability of a document submitted to EDIS. Whereas in FY 2007 only 50.3 percent of Operation 2 documents were made available within 24 hours and 76.5 percent within 48 hours, in FY 2008, figures were 81.3 percent within 24 hours and 93.7 percent within 48 hours.

In FY 2009, the Commission took another major step in its efforts to accelerate document availability with the deployment of EDIS 3.0. The Commission maintained its processing time for documents by making available 81 percent of Operation 2 documents within 24 hours and 91.3 percent within 48 hours. These figures included an anomalously low percentage for the month of June when a fairly large number of documents were re-processed to ensure data integrity. The overall annual performance metrics easily met the performance goals of having 75 percent of documents available on EDIS within 24 hours and 85 percent within 48 hours.[7]

These performance metrics further improved in FY 2010, reflecting enhanced efficiencies in processing due to the addition of EDIS 3.0 and process reengineering of the docketing function. The EDIS processing goals are therefore being increased for FY 2011, to 80 percent in 24 hours and 90 percent in 48 hours. In addition, a change in the method of calculating processing of documents into EDIS will be made in FY 2011. Currently, post-trial exhibits are included in the processing rate. However, because they are provided to the ALJ during trial and cannot be processed until the trial is over, such documents are rarely processed within the 48-hour goal. Also, because post-trial exhibits contain voluminous attachments, these particular document types entail complex processing actions. For these reasons, post-trial exhibits will no longer be included in the processing calculations.[8] The Commission will, however, continue to endeavor to process all post-trial exhibits as swiftly as possible.

As part of the FY 2011–FY 2012 Performance Plans, the Commission has added an annual goal regarding outreach to bar groups and others. The intent of this annual goal is to enhance the service the Commission provides to its customers.

[7] As noted in the Operation 1 section above, the EDIS statistics presented above differ slightly from those reported in earlier years because technical enhancements to the system allowed the Commission to improve the quality of the reports generated by the system.

[8] The data shown in figure 2-2 and reported in the accompanying text are not identical to data provided on the Commission's Web site. Data provided on the Web site do not include post-trial exhibits.

Performance goal no. 3: Actively facilitate enforcement of exclusion orders		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Issue seizure and forfeiture orders approximately 60 days after receipt of notification letters from Customs.	Issue seizure and forfeiture orders within 60 days after receipt of notification letters from Customs.	***Target not met for*** 1 of the 11 seizure and forfeiture orders issued in FY 2010.
Provide scheduling information regarding section 337 proceedings to Customs on a quarterly basis.	Provide terms of proposed exclusion orders to Customs prior to submission to the Commission, and provide scheduling information regarding section 337 proceedings to Customs on a quarterly basis.	***Target met:*** scheduling information provided to Customs and meetings held with Customs personnel.
Conduct a survey regarding the effectiveness of outstanding exclusion orders.	Formulate recommendations regarding enforcement in view of survey results and implement any such recommendations adopted by the Commission.	***Target met:*** survey was approved by OMB and questionnaires were sent out in August 2010.

Issuance of seizure and forfeiture orders

A performance goal for the issuance of seizure and forfeiture orders is in effect, because such orders must be issued by the Commission before Customs can seize and forfeit goods that are imported in violation of a section 337 exclusion order. When there has been an attempt to import goods in violation of an exclusion order, Customs issues a notification letter of denial of entry to the importer. Once it receives a copy of the notification letter, the Commission issues seizure and forfeiture orders to Customs directing it to seize any future importations in violation of the exclusion order by the same importer. If seizure and forfeiture orders are not issued promptly, further importations in violation of the exclusion order might occur.

The Commission revised its goal for issuance of seizure and forfeiture orders in FY 2009 to 60 days after its receipt from Customs of copies of notification letters. Before FY 2009, the Commission's goal for issuing these orders was linked to the end of a waiting period during which importers could protest a denial of entry letter with Customs. The revised goal substantially shortened the period for issuance of seizure and forfeiture orders by the Commission. Under the revised goal, instead of delaying the issuance of a seizure and forfeiture order, the Commission would respond to a protest by rescinding the seizure and forfeiture order.

In FY 2010, the Commission issued 11 seizure and forfeiture orders, all but one of which was issued within the performance goal of approximately 60 days after the Commission's receipt of a denial letter. In one investigation, four of the five orders were issued only 2 days after the Commission's receipt of the notification letters. The remaining order, which was based on three letters to the same importer that were received in FY 2009, was issued 92 days after the receipt of the first two letters and 61 days after the third letter. All other seizure and forfeiture letters issued during FY 2010 were issued well within the time frame of the performance goal, with the time to issuance ranging from as little as two to a maximum of 53 days after receipt of Customs' notification letter. Thus, in FY 2010, the Commission made substantial progress toward meeting this performance goal as compared to FY 2009. No seizure and forfeiture orders remained pending at the end of FY 2010.

In FY 2009, when the Commission transitioned to its new goal for issuance of seizure and forfeiture orders, orders were issued in every instance far sooner than required by the previous goal. However, the new, substantially shorter, goal was not met. Specifically, in FY 2009, seizure and forfeiture orders were issued between 5 and 21 days outside the Commission's goal of issuance 60 days after the receipt of a notification letter.

With regard to one investigation, *Sildenafil*, in which Customs decided 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 the individual consumers. During FY 2009, the Commission received thousands of notification letters in this investigation. In FY 2010, the number of notification letters issued to individual consumers dropped to approximately 1,500.

Communications regarding enforcement of remedial orders

Section 337 provides for the issuance of exclusion orders, which are enforced by Customs, that bar infringing imports from entering the United States when the Commission finds that the statute has been violated. To ensure the effectiveness of section 337, the Commission established an annual goal to foster communications between the Commission and Customs relating to the enforcement of exclusion orders. Specifically, in FY 2007, the Commission established an annual goal requiring that quarterly scheduling information be provided to the IPR Branch of Customs to supplement information on the Commission's Web site and assist Customs in planning for possible upcoming exclusion orders.

In FY 2010, the Commission provided four scheduling reports to Customs, and Commission personnel from the Offices of Unfair Import Investigations and the General Counsel met with personnel from the IPR Branch on several occasions to discuss issues concerning the enforcement of exclusion orders. Additionally, a mechanism for faster transmission of certain materials relating to exclusion orders to the IPR unit, which had been developed during FY 2009, was fully implemented during FY 2010.

Between FY 2007 and FY 2009, the Commission also worked to improve communications with Customs. During each of these years, scheduling information was provided to the IPR Branch on a periodic basis, and meetings were held between Commission and IPR Branch personnel to discuss issues pertaining to section 337 exclusion orders, including language changes intended to facilitate Customs enforcement of such orders. Also, as noted above, in response to a request from Customs, the Commission developed a mechanism for faster transmission of certain materials relating to exclusion orders to the IPR Branch; this was initially put in place at the end of FY 2009.

Exclusion order survey

To assess the effectiveness of section 337 orders, in FY 2000 and FY 2005 the Commission surveyed firms that had obtained outstanding exclusion orders. Information from these surveys was used to strengthen Commission procedures relating to the issuance of exclusion orders. The results of the surveys were also shared with Customs personnel. In FY 2009, the Commission determined that it would conduct a third exclusion order survey and established an annual goal for FY 2010 for such a survey.

Commission personnel therefore crafted an exclusion order survey, similar to the two prior surveys, and a notice requesting public comments on the proposed survey was published in February 2010; following the comment period, the Commission made some revisions to the survey questionnaire. The Office of Management and Budget approved the survey in mid-August 2010. A few weeks later, the Commission sent questionnaires to those firms who had obtained exclusion orders that remained in effect at that time—about 80 firms in all. To increase the survey response rate, in September 2010 a follow-up request was sent to each firm that had not yet responded to the survey. In accordance with the FY 2011 annual goal, OUII will compile the results of the exclusion order survey, and an enforcement working group at the Commission will formulate recommendations in light of those results and begin implementing any recommendations adopted by the Commission during FY 2011. As with the previous exclusion order surveys, the Commission will share the results of the survey with Customs.

Performance goal no. 4: Improve the Commission's physical and information infrastructure in order to meet the demand and requirements for expeditious adjudication of often-complex intellectual property disputes		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Acquire additional space for conferences and hearings.	None.	***Target met:*** the Commission took possession of additional space in August 2010; work is proceeding on final design details, including construction of an additional courtroom.

Acquisition of additional space for conferences and evidentiary hearings

As the number of investigations and the size of the Commission's ALJ corps has grown in the last several years, and multiple section 337 complaints have often been filed relatively close together in time, the ALJs have increasingly found it difficult to locate an available courtroom when setting dates for evidentiary hearings and conferences. This constraint threatened to undermine the expeditious disposition of section 337 proceedings—a key performance goal for Operation 2. To alleviate this problem, the Commission arranged for the use of extra courtroom space, on a temporary basis, at the U.S. District Court for the District of Columbia in 2009. However, because a long-term solution was required, the Commission also worked to secure a lease on additional space at the Commission's headquarters. That lease was signed and the Commission took possession of the additional space in August 2010. During FY 2010, the Commission also worked with an architectural and engineering firm on a courtroom development plan. A contract for the construction of the additional courtroom is expected to be awarded in the fall of 2010, with construction to be completed by late spring 2011. Given that the courtroom space has already been acquired and construction will start in the near term, this goal will not be retained for FY 2011.

Identification of public interest issues

For FY 2011, the Commission established a new performance goal: identifying potential public-interest issues earlier in the section 337 process and developing additional information about such issues before the remedy phase of an investigation. In preparing the latest version of its Strategic Plan, the Commission consulted with its customers, and the Commission determined to add this goal to the FY 2011–FY 2012 Performance Plans based on a suggestion from one of those customers.

The performance goal is as follows: "Formalize the process to facilitate the identification of potential public interest issues in the early stages of a section 337 investigation and provide the parties a clear opportunity to address such issues prior to the remedy phase of an investigation." The Commission also established a related annual goal for FY 2011: "Review comments on notice of rulemaking and determine what further action is appropriate." At this time, the Commission has not established an annual goal for FY 2012.

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, which is authorized by a number of statutes. The Commission's analysis of trade and competitiveness issues is authorized by section 332 of the Tariff Act of 1930, and its 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 works to expand its capability as a national resource providing 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 strategic goal in the seventh edition of its Strategic Plan:

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

The Commission conducts statutory industry and economic analysis investigations at the request of the President, USTR, the House Committee on Ways and Means (W&M), and the Senate Committee on Finance (SFC). Caseload trends of the Commission's statutory investigations during FY 2006–FY 2010 are displayed in table 3-1 and figure 3-1. The number of investigations instituted during FY 2010 was significantly higher than during the previous two years, returning closer to the Commission norm. The decrease in the two prior fiscal years likely reflected increased administration and congressional focus on other issues, including those such as health care and the financial crisis. Performance results are discussed in detail below.

Table 3-1: Summary of industry and economic analysis program investigations, FY 2006–FY 2010[a]

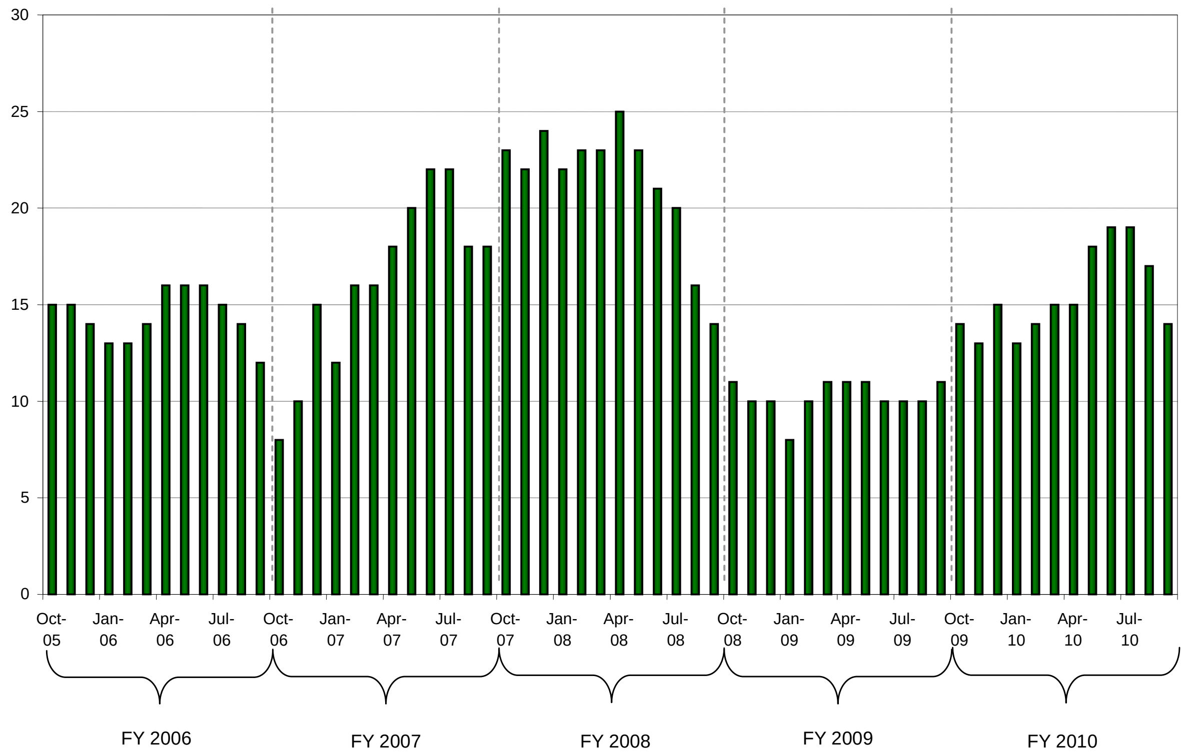
Status [b]	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Instituted	12	22	10	9	16
Active	26	33	30	22	29
Completed	14	14	14	10	13

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 that 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); the number of completed investigations is typically less than the number of reports delivered or published in a given fiscal year.

Figure 3-1: Industry and economic analysis investigations active, by months, for October 2005 through September 2010[a]



Source: OP and EC.

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

FY 2010 Performance

To meet the strategic goal for Operation 3, the Commission developed 3 performance goals and 8 supporting FY 2010 annual goals. One of the annual goals has 4 distinct subgoals. The Commission met or exceeded 8 of these 11 FY 2010 goals and subgoals for the Industry and Economic Analysis program.

The Commission's first FY 2010 performance goal was to improve and develop efficient and effective research methods. The Commission met two annual goals that support this performance goal. Specifically, the Commission improved the client utility metric by 2 percent from the FY 2009 baseline, and delivered 100 percent of its reports on time.

For the second performance goal, the Commission sought to identify emerging areas and issues and strengthen staff expertise. Six FY 2010 goals/subgoals supported this performance goal. The Commission met four of these six goals. In FY 2010, Commission staff produced more than 60 research initiatives. In addition, the Commission responded to two requests that involve new areas or types of analysis; continued to implement procedures to validate and improve economic models it uses; and expanded databases and analysis on NTMs, services trade, and foreign direct investment (FDI). Two subgoals related to the agency's U.S. Applied General Equilibrium (USAGE) model were not completely met.

The Commission transformed the USAGE database from the Standard Industrial Classification (SIC) to the North American Industry Classification System (NAICS) and updated USAGE for occupational breakouts. However, the Commission did not extend the USAGE dynamic database to the latest U.S. input-output (I-O) table or update USAGE for state-level breakouts. Commission staff were unable to complete these subgoals due to an unexpectedly heavy and analytically complex workload.

The third performance goal reflects the Commission's efforts to improve communication with its customers about agency capabilities. Three annual goals support this performance goal, two of which were met. The agency improved satisfaction with the Industry and Economic Analysis Web page by 2 points over the FY 2009 level and trained 52 staff members on briefing skills. The goal of increasing use of the Commission's Web site to facilitate public involvement in studies and to disseminate information was not fully met.

Performance goal no. 1: Develop and improve efficient and effective research methods		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Obtain 2% improvement over FY 2009 responses from executive branch and congressional staff categorizing delivered statutory reports as useful.	Obtain 2% improvement over FY 2010 responses from executive branch and congressional staff categorizing delivered statutory reports as useful.	***Target met:*** 14 of 19 statutory reports delivered in FY 2010 were reported by requestors as useful, while 5 did not receive responses (74 percent of reports considered useful for FY 2010 versus 41 percent in FY 2009).
Deliver all section 332 reports to requestors on time.	Deliver all section 332 reports to requestors on time.	***Target met:*** 19 of 19 reports were submitted on time to requestors.
	Develop a baseline for Commissioners' feedback, especially on report quality and fully addressing Commission customers' requests.	

During FY 2010, the Commission sought to continually improve and develop efficient and effective research methods. The Commission met both goals relating to this performance goal.

Customer briefings and timeliness of reports

In FY 2010, the Commission met its goal of raising the share of requestors characterizing the Commission's reports as useful by 2 percent: this share actually rose by 33 percentage points over FY 2009.[9] Agency staff solicited feedback on statutory reports at briefings conducted for requestors. The Commission offered such briefings for all 19 reports completed this fiscal year; 14 briefings were conducted. During these meetings, staff answered questions and received feedback and insights that will help to improve future studies and processes. In all 14 briefings (covering 74 percent of delivered reports), the requestors cited the corresponding report as useful. The Commission did not receive feedback for the remaining five reports.

[9] Requestors have shown less interest in briefings for certain recurring reports. In FY 2009, the share of delivered reports accounted for by such recurring reports was greater than that in FY 2010.

In the past five years, this goal has changed, from tracking whether customers cited Commission reports to directly soliciting customer feedback. The goal was changed due to the difficulty in tracking citations and the recognition that formal citations are not an effective indicator of customer satisfaction. The current goal is more direct as well as easier to track, gathered from customer communications and briefings transmitted via quarterly reports from the Commission's Office of External Relations (ER).

As in prior fiscal years, the Commission met the goal of delivering 100 percent of its Operation 3 reports to requestors on time. Over the past five years, the Commission has consistently delivered all reports on time or earlier: 22 reports in FY 2006, 22 reports in FY 2007, 21 reports in FY 2008, 17 reports in FY 2009, and 19 reports in FY 2010.

Performance goal no. 2: ***Expand the Commission's capacity to anticipate and address new research issues and areas as they Emerge***		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Produce more than 60 staff-initiated articles, working papers, research notes, and presentations at professional meetings/ conferences, as resources and mandatory work permit.	Produce more than 60 staff-initiated articles, working papers, research notes, Executive Briefings on Trade, and presentations at professional meetings/conferences, as resources and mandatory work permit.	***Target met:*** 92 products (table 3.2).
Respond to customer requests to use two new types of analysis or subject areas.	Continue to enhance staff capacity to efficiently respond to two or more new areas of analysis or data needs as requested by customers.	***Target met:*** two new subject areas included SMEs and China IPR.
Expand economic modeling and analytical capabilities. Focus for FY 2010 will be: (a) advancing the model validation process to monitor USITC general equilibrium model performance.	Expand economic modeling and analytical capabilities. Focus for FY 2011 will be: (a) continuing to model validation process to monitor Commission general equilibrium model performance.	***Target met:*** the model validation process was advanced.
(b) continuing to expand the development and use of new tools/ databases related to NTMs, services and FDI to inform trade policy activities.	(b) increasing integration of tools and databases related to NTMs and FDI into statutory work.	***Target met:*** new databases were developed and research produced.
(c) extending the USAGE dynamic database to latest I-O table and transforming database to the NAICS nomenclature (from the SIC).	(c) extending USAGE model to the 2002 I-O table.	***Target not met:*** database was transformed to NAICS although latest I/O table (2002) not included.
(d) updating the USAGE add-on modules for state-level and occupational breakouts.	(d) developing new sources of supply chain and firm-level data to further understand global trade patterns	***Target not met:*** the occupational breakouts add-on modules were integrated, but state-level breakouts were not included.
	(e) continuing research initiatives on India and Brazil, with a focus on agricultural trade.	
	(f) examining the Vietnamese service sector.	

The second performance goal was designed to maintain and improve the Commission's responsiveness to customer requests for insights into new and difficult international trade issues that may affect the United States. To achieve this FY 2010 goal, the Commission sought to implement innovative analytical methods and to investigate emerging areas and issues. The Commission met four out of six annual goals relating to this performance goal.

Research Initiatives

Self-initiated research is tied to Commission priorities and often serves as a testing ground for new analytical techniques that have potential use in future statutory work. In addition, such work allows staff to serve the Commission's customers more expeditiously by providing the opportunity to collect data and information and to expand subject matter expertise.

By completing 92 staff research initiatives, the Commission significantly exceeded its FY 2010 goal of more than 60 research initiatives. Table 3-2 shows the trend in independent staff research over the past five fiscal years. The main contributors to this effort were the large increases in conference/working papers, and research notes and publications. These increases have coincided with an uptick in statutory work, which has decreased the number of "Executive Briefings on Trade."

Table 3-2: Staff research, FY 2006–FY 2010

Item	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
JICE articles	N/A	8	10	5	3
Industry Summaries	1	0	0	2	5
Staff research studies	2	1	0	1	0
Conference/working papers	8	22	21	15	23
Research notes/publications	N/T	9	15	10	21
Formal staff presentations	33	45	47	26	33
Executive Briefings on Trade	N/A	N/A	N/A	40	7
Total	44	85	93	99	92

Source: EC and IND.

Note: The *Journal of International Commerce and Economics* (JICE) was launched in December 2006. Research notes and publications were not tracked (N/T) until FY 2007. The Executive Briefings on Trade initiative was launched in FY 2009.

Number of customer requests that involve new areas or types of analysis[10]

The Commission seeks to provide analysis that covers the newest developments in international trade. As part of this performance goal, the Commission met its goal of conducting statutory research in two new areas of focus: SMEs and Chinese IPR infringement.

[10] 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.

The three studies on SMEs examined the extent and composition of U.S. exports by these firms and factors that may disproportionately impede U.S. SME exports. The first report, *Small and Medium-Sized Enterprises: Overview of Participation in U.S. Exports*, surveyed existing data regarding U.S. exports by SMEs and identified gaps in these data. The second report, *Small and Medium-Sized Enterprises: U.S. and EU Export Activities, and Barriers and Opportunities Experienced by U.S. Firms*, analyzed the sectoral composition, firm characteristics, and exporting behavior of U.S. SME firms compared to SMEs in leading economies of the European Union.

The third report, *Small and Medium-Sized Enterprises: Characteristics and Performance*, expanded knowledge of SMEs' competitiveness and global operations. The report, delivered in early FY 2011, was innovative in several ways. Information on SMEs and large firms in the manufacturing and services sectors was gathered through a survey that used probability sampling. The survey gathered information on firm characteristics and the impediments that firms face in exporting. The report analyzed newly available data from the Bureau of Economic Analysis and the U.S. Census Bureau on SME affiliate sales and cross-border exports of U.S. services. Before the publication of this report, no official trade data were available on the export activities of SME services firms. Also, a novel use of input-output analysis was developed to estimate SMEs' indirect contribution to exports. The approach decomposed economic activity into that produced by large firms and that produced by SMEs, so that the full contribution to U.S. exports by SMEs could be estimated.

The Commission also worked on the first of two China IPR studies (China: Intellectual Property Infringement, Indigenous Innovation Policies, and Frameworks for Measuring the Effects on the U.S. Economy) in FY 2010. This study, which will be delivered in FY 2011, identifies the principal types of reported IPR infringement in China. The study also describes the indigenous innovation policies under which China reportedly promotes the technologies and brands of Chinese companies over those of non-Chinese companies. Finally, the report outlines analytical frameworks for determining the quantitative effects of the infringement and indigenous innovation policies on the U.S. economy as a whole and on sectors of the U.S. economy, including lost jobs.

Since FY 2006, the Commission has consistently met the goal of expanding its statutory research into new areas of focus. These have included such topics as the global beef trade, the proposed U.S-Korea Free Trade Agreement (FTA), agricultural sales to Cuba, biotechnology, and new types of analysis in the recurring Import Restraints study.

Expansion of modeling and analytical capabilities

The Commission met its goal of expanding economic analytical capabilities; however, it did not fully meet its goal of expanding modeling capabilities. This goal is designed to broaden and deepen the Commission's ability to answer statutory requests and provide technical assistance on a wide range of research topics.

Model validation process

The Commission's model validation process is designed to improve the USAGE model's projection capabilities. The USAGE model is an applied general equilibrium model of the U.S. economy that is used to simulate the effects of trade policy changes. Model validation allows the agency to evaluate the performance of the model against actual outcomes. Two consultants from Monash University continued to implement this process. By using data available from 1998 and earlier years, the consultants have employed the USAGE model to generate forecasts for 500 U.S. commodities for the period 1998–2005.

These forecasts are then compared with actual outcomes and with alternate forecasts derived from trends from 1992 to 1998.[11] This work has improved the model's ability to generate historical comparisons and to extract important trends for U.S. economic sectors. Implementation of this process generates insights into ways agency staff can improve policy analysis for our customers.

The model validation goal has been a consistent part of the Commission's strategic planning for the last five years, as the agency uses this model to inform many of its Operation 3 studies. A considerable increase in statutory work after FY 2006 motivated the agency to consider outside assistance. In FY 2007, efforts to move forward on this goal were realized with the aid of Monash University contractors, who have considerable expertise in the area. Since that time, Commission staff has been able to continue progress on model validation, working closely with the contractors.

Tools and databases related to NTMs, services and FDI

In recognition of its customers' interest in barriers to trade that extend beyond tariffs, the Commission has pursued a research initiative to develop estimates of NTMs. After years of research in this area, the Commission took a leading role in the development of knowledge related to NTMs. In FY 2010, Commission staff developed and maintained several NTM databases, including a services-specific NTM database. Work is underway to enlarge the services NTM database to include information on trade and investment impediments in approximately 60 countries. In the area of goods trade, staff advanced work on the analysis of unit values to provide more precisely targeted estimates of the tariff equivalent of foreign countries' NTMs; in particular, staff has focused on techniques that can be used to simulate the effects of removing NTMs. New statistical techniques for identifying NTM effects were applied to statutory and staff research, such as the ongoing section 332 investigation on China's agricultural sector and a research initiative on India. The goal of these efforts is to allow policy makers to determine the extent to which elimination of or changes in NTMs would affect the U.S. economy, as the Commission already does for tariffs.

In addition to the initiative on NTMs, a research initiative has been established to improve the Commission's analysis of services trade and the FDI policies of the United States and its trade partners. In FY 2010, staff gathered information and data and developed collaborative relationships with outside institutions to expand the breadth of knowledge on services trade and FDI. Staff is applying knowledge gained in this initiative to the ongoing China IPR studies.

Over the last five years, the Commission's work extending NTM research to better inform its statutory products has been undertaken steadily. Since FY 2005, the agency has used its global NTM estimates in analyses of various sectors, such as the insurance sector (Property and Casualty Insurance Services) and the international beef industry (Global Beef Trade). Some of these analyses of the agricultural and manufacturing sectors involved CGE modeling. Furthermore, the Commission updated its global NTM database, and extensive work was conducted developing an NTM Network Wiki, now in the public domain. Commission staff are active participants in regular meetings held by United Nations Conference on Trade and Development (UNCTAD), where the Multi-Agency Support Team focuses on ways to improve NTM data collection and classification.

[11] A paper documenting this effort was published in a special issue (September 2010) of *The Economic Record*. Peter B. Dixon and Maureen T. Rimmer, "Validating a Detailed, Dynamic CGE Model of the USA," *Economic Record 86*, s1, 22-34.

Extension of USAGE

The Commission set a goal to extend the USAGE dynamic database to the latest input-output table and to transform the database used in the USAGE model from SIC to NAICS nomenclature. The Commission also set a goal to update the USAGE add-on modules for state-level and occupational breakouts for the NAICS-based model. In FY 2010, Commission staff incorporated the 1997 NAICS nomenclature into the database; however, they did not incorporate the 2002 Input-Output table. Also, while Commission staff updated the USAGE add-on modules for occupational breakouts for the NAICS-based model, they did not complete state-level breakouts. The goal of updating USAGE was not fully met due to a heavy and analytically complex statutory workload, which takes precedence over longer-term developmental efforts.

As noted earlier, over the last five years the Commission has invested heavily in the USAGE model, enhancing its capabilities and increasing its applications. In FY 2006, a major extension of the model was achieved by improving modeling characteristics for the sweetener sectors to a more highly disaggregated level than ever before, allowing the agency to respond to customer requests more precisely. In 2007, staff extended the model to include dynamic analysis and data, enabling a more complex assessment of potential policy change. In collaboration with Monash University, the Commission also added greater occupational detail.

Research initiatives for FY 2011

The Commission retained its annual goal of expanding economic modeling and analytical capabilities for FY 2011. Specific priorities include continuing model validation efforts, further research on NTMs and FDI, USAGE model enhancements, development of new sources of supply chain and firm-level data, and research on Brazilian and Indian agricultural trade and the Vietnamese services sector.

Performance goal no. 3: Improve the Commission's communications with its customers to ensure that they understand the agency's capabilities and are able to benefit from its expertise		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Achieve 2 point improvement over FY 2009 level of satisfaction reported by users of USITC Industry and Economic Analysis Web pages.	Achieve 1 point improvement over FY 2010 level of satisfaction reported by users of Commission Industry and Economic Analysis Web pages.	***Target met:*** Foresee results showed a 2 point improvement over FY 2009 (table 3-3).
Increase use of USITC Web site (including EDIS) to facilitate public involvement in studies and to disseminate information. Special efforts in FY 2010 include broadcasting Commission industry and economic analysis and highlighting independent research more widely on the Web site.	Goal discontinued.	***Target not met:*** the special efforts identified for FY 2010 were supplanted by other improvements—in particular, the development of the secure "drop box" technology.
Provide training on briefing skills to at least 30 employees to enhance small group communication with both internal and statutory customers.	Goal discontinued.	***Target met:*** Four classes were held with 52 staff trained.

Industry and Economic Analysis Web pages

In FY 2010, the Commission continued using Foresee 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 63 in FY 2010 (table 3-3), a level 2 points higher than that of FY 2009. This score sufficiently meets the goal to achieve a 2 point improvement over the FY 2009 level of satisfaction.

In addition to providing detailed information for overall satisfaction, results from Foresee distinguished between two broad customer categories: those users who downloaded a report and those who did not (table 3-3). While the overall satisfaction level was 63, respondents who downloaded a report for business use rated the site higher (71) than those who downloaded a report for academic research (61). Those who reported using the site for preparation of trade negotiations rated it highest overall (77). Users who never downloaded a report rated the site 62, while those who downloaded a report for reasons other than those listed above rated the site at 50. These results suggest that many of the agency's key customers (those who download and use our reports for business and trade negotiations) 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 correlate with higher satisfaction.

Table 3-3: User survey results, Industry and Economic Analysis Web pages, FY 2010

	Types of users:					
		Users who downloaded a report:				
	Users who never downloaded a report	Used for business	Used for academic research	Used for trade negotiation	Other	Overall users
No. of Respondents	37	6	12	3	4	62
Share of total (%)	60	10	19	5	6	
Searchability:						
Content	78	73	75	74	66	76
Functionality	65	73	66	81	62	67
Look and feel	70	71	62	74	50	68
Navigation	62	66	59	80	48	62
Search	65	70	61	82	57	65
Site performance	79	78	76	79	76	78
Overall satisfaction	62	71	61	77	50	63
Future behaviors:						
Likelihood to return	73	87	74	89	69	75
Recommend	70	76	59	96	64	70
Primary resource	69	74	70	96	56	70

Source: Foresee Results, October 2010.

Overall scores for indicators of usefulness, such as content (76), site performance (78), likelihood to return (75), primary resource (70), and recommend (70) significantly outperformed the overall satisfaction level. Scores for indicators of navigability, such as functionality (67), look and feel (68), navigation (62) and search (65) were lower. This indicates that while the public rates the Web pages as useful, improvements can be made in navigability.

Over the past 5 years, overall customer satisfaction with the Industry and Economic Analysis Web pages has hovered between 61 and 67. Although the Commission has made a considerable effort to improve this component of the Web site over the last several years, the survey results suggest that additional improvements in searchability and organization are warranted. The Commission will continue to draw on the Foresee survey results to target improvements in the Industry and Economic Analysis Web pages.

Increase usefulness of Web site

In FY 2010, the Offices of Operations and the Chief Information Officer worked to enhance the Commission's Web site in order to more effectively engage participants in statutory investigations. Web developers introduced a technology that allows staff to exchange information with outside contributors using a user-friendly, secure "drop box" on the Commission Web site. This technology was used in the third study on SMEs, for which staff sent out and received questionnaires from SMEs. In addition, the drop box technology was implemented to transmit information between staff and statutory customers. Finally, Web developers deployed new search engine technology to allow easier access to published reports and Commission research.

These activities contributed toward the larger goal of increasing the use of the Web site in order to facilitate public involvement in studies and to provide high-quality information and analysis. The goal for FY 2010 included special efforts to broadcast Commission industry and economic analyses and highlight independent research more widely on the Web site. Following a revision to the Industry and Economic Analysis pages of the Web site in FY 2009, progress on this effort has been limited in FY 2010, as resources have been allocated to the development of the tools mentioned above.

Over the past five fiscal years, the Commission has devoted considerable resources toward improving its Website. Since FY 2007, the Office of Information Technology Services (ITS) has engaged more closely with agency staff to improve the search engine and the overall usability of the Web site. In FY 2009, ITS staff changed the structure and format of the Industry and Economic Analysis Web pages to enhance usability. One significant improvement in FY 2009 was to highlight the most recently completed reports in the main Industry and Economic Analysis Web page.

Although there is no specific annual goal identified for FY 2011, improvement of the Commission Web site continues, with more interoffice collaboration.

Training on briefing skills

In FY 2010, the Commission used two vendors to conduct four classes on briefing skills for 52 staff members. Practice briefings are contributing to a shared understanding of expectations and effective preparation and approaches.

FY 2010 was the first year of this goal. It was put in place to address the need to enhance our communications with our clients. However, given that it measures internal process rather than service to customers, the goal was dropped for FY 2010.

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 in Operation 4 include, inter alia, the maintenance and publication of the Harmonized Tariff Schedule (HTS), the preparation of legislative reports for Congress, participation in the committees of the World Customs Organization (WCO), provision of technical support to USTR in the negotiation and implementation of FTAs, and contributions to other tariff-related programs. These services also include maintenance of the HTS Online Reference Tool, the Tariff Database, and the 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/WTO; 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 seventh edition of the Commission's Strategic Plan established the following strategic goal for this operation:

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

FY 2010 Performance

The Commission established two performance goals and five corresponding annual goals for this Operation. One of the annual goals has two distinct parts. For FY 2011 and beyond, the Commission will be applying two performance goals and 10 annual goals aimed at a better reflection of actual performance under Operation 4.

In FY 2010, 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 Harmonized System 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.

The Commission also chaired the interagency Committee for Statistical Annotation of the Tariff Schedules (commonly referred to as the "484(f) Committee"). During FY 2010, the committee met at the Commission on two occasions, addressing 27 new petitions and four carryover items requesting statistical breakouts in the HTS and/or Schedule B for exports.

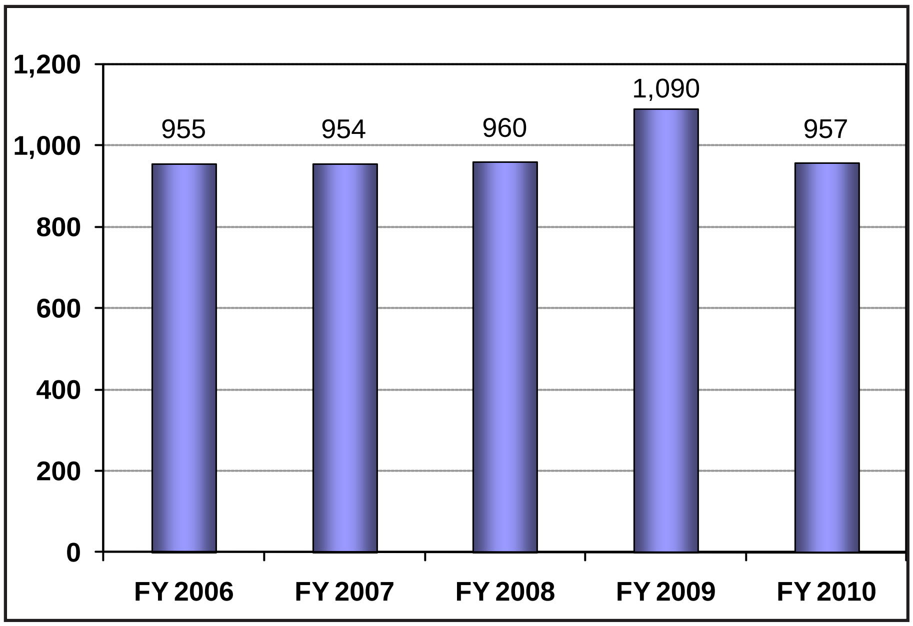
Performance goal no. 1: Increase the utility and improve the dissemination of tariff and trade information services to customers		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Obtain 5% increase in number of Trade DataWeb and Tariff Database Reports provided.	Discontinued in FY 2011.	***Target not met:*** 957,065 DataWeb reports were downloaded (12.2% decline from 1.09 million in FY 2009). ***Target met:*** 589,495 Tariff Database reports were downloaded (a 12% increase from an estimated 526,000 in FY 2009).
Achieve 5% increase over FY 2009 in usage of HTS page of USITC Web site.	Achieve 5% increase over FY 2011 in usage of HTS online reference tool.	***Target met:*** 3.904 million visits were made to the HTS portion of the USITC Web site (68% of total USITC Web site visits) (a 13.5% increase over 3.44 million visits in FY 2009).
Achieve 2 point improvement over FY 2009 level of positive feedback from users of USITC's tariff and trade Web pages.	Achieve 1 point improvement over FY 2010 level of positive feedback from users of Commission tariff and trade Web pages.	***Target met:*** overall Foresee score of 70 for the Tariff Information Center (a 10 point increase); all other indicators were up as well.
	70% of users' keyword searches on the HTS Online Reference Tool are successful (i.e., do not result in "not found" messages).	
	Less than 1% difference between HTS database from Customs and current/live version of HTS.	
	Updated HTS versions posted to Web site within 2 working days of effective date.	
	484(f) Committee requests acknowledged within 5 working days of receipt; petitioners notified electronically of Committee decisions within 5 working days and in writing within 5 days after implementation of statistical modifications of the HTS.	

Increasing the utility of and improving access to tariff and trade information services has been a priority of the Commission for a number of years. The Commission has established goals designed to ensure the provision of effective information, technical expertise, and advice to the executive and legislative branches, as well as to the broader trade community and the public. The ultimate goal is to increase the ability of customers to understand and use this information in carrying out trade policy and facilitating day-to-day import and export activities.

Use of the Trade DataWeb and Tariff Database

For FY 2010, the agency had set a goal of 5 percent growth in the number of reports downloaded by users of the DataWeb. However, the number of downloaded reports for the fiscal year totaled 957,065, down from 1.09 million in FY 2009, and the goal was not met. DataWeb reports downloaded by users increased during FY 2006–FY 2008 (figure 4-1).[12] It is expected that the usage of the DataWeb will continue to be steady in future years, but that its customer base will not grow substantially from year to year. For FY 2011 and beyond, this performance goal will be replaced by other, more performance-indicative goals, which are briefly described at the end of this section.

Figure 4-1: DataWeb reports to users, FY 2006–FY 2010 (in thousands)



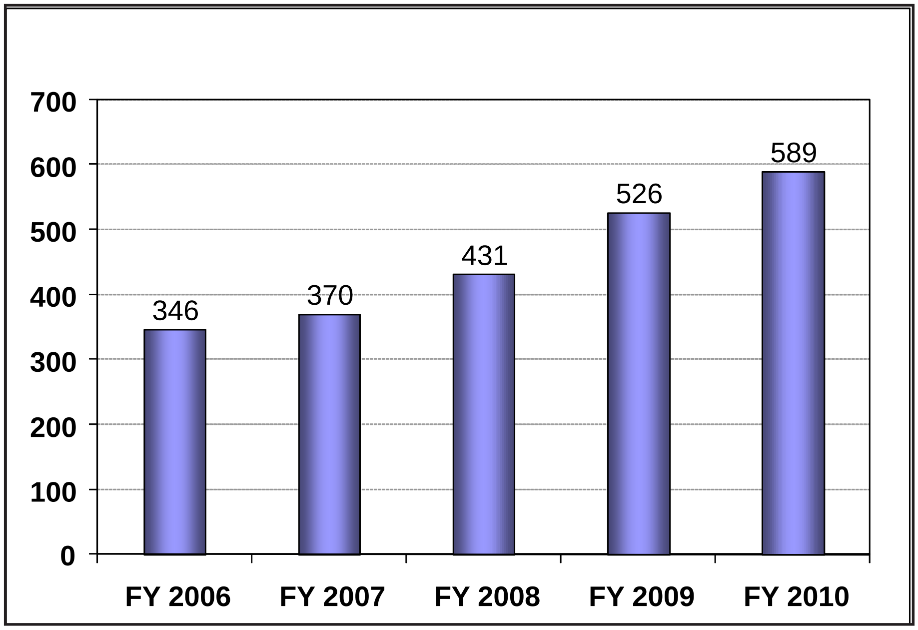
Estimated number of reports

Source: OCIO.

As shown in figure 4-2, use of the USITC Tariff Database in FY 2010 increased for the fifth year in a row, rising by 12 percent to an estimated 589,495 data retrievals, which exceeded the performance goal of 5 percent. This increase is due, in large part, to the implementation of a new HTS Online 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; in the last seven months of FY 2009, there were nearly 700,000 queries/searches in the reference tool, and in FY 2010, the number of visits was around 1.2 million. For FY 2011, the annual goal regarding level of usage of the USITC Tariff Database is being replaced with annual goals pertaining to the accuracy of the database and usage of the HTS Online Reference Tool. However, the Commission will continue to monitor the database's usage levels.

[12] In previous years' reports, Figure 4-1 was labeled as "DataWeb reports to non-ITC users." However, examination of the program that generates these statistics revealed that the data include USITC users. A similar adjustment has been made to figure 4-2.

Figure 4-2: Estimated Tariff Database queries by users, FY 2006–FY 2010 (in thousands)



Estimated number of reports

Source: OCIO.

Use of the HTS and the HTS Online Reference Tool

During FY 2010, there were an estimated 3.904 million visits to the HTS (68.25 percent of all visits to the Commission's Web site), a 13.5 percent increase over FY 2009. This reflected a continuing trend in the growth of such visits, from 1.3 million in FY 2006 to 3.4 million in FY 2009. There were 1.189 million visits to the HTS Online Reference Tool in FY 2010, the first full fiscal year since the tool was implemented; this figure will serve as a baseline measure for future performance reporting. Given that many of the visitors to the HTS pages may also visit the HTS Online Reference Tool, there is likely to be overlap in the number of "visits" to this part of the Web site.

The Commission has provided various types of information to the public via its Web site over the past several years; further improvements are being made continually. The site displays the most up-to-date texts of the HTS, which are generally updated online in less than two working days of implementation dates established by the President or Congress. Immediacy of access to the up-to-date, online 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 has continued to maintain a "Tariff Wizard" to assist the trade community in determining future rates through the USITC Tariff Database. Current tariff rates and trade by source, import program, etc., are linked directly to the Wizard. In addition, the Commission provides a series of help screens to assist users as they navigate through the site.

During FY 2010 the Commission continued to fine-tune the Web site's "Tariff Information Center" pages, which include the up-to-date HTSA, the HTS Online Reference Tool, an HTS archive, and the USITC Tariff Database. In addition, copies of Commission-approved miscellaneous tariff bill reports and reports on two section 1205 investigations were posted on-line. For several years, the Web site has provided a "help" button, enabling users to request by e-mail specific information on tariff classification and related matters.

The Commission also continued to develop editing software for updating the HTS Online Reference Tool. Entries were also added to the internal thesaurus for the reference tool, with a view to increasing the user's search capability. This editing software facilitates the presentation of the HTS in database format, which, in turn, benefits Customs in updating its automated files. It also enhances the Commission's ability to develop more interactive Web pages for disseminating tariff information.

User feedback on tariff and trade Web pages

The ratings for the individual elements reported by Foresee for the HTS group Web pages in FY 2010 were consistently higher than those reported for FY 2009, and overall satisfaction for these pages increased by 10 points over that reported in FY 2009. Users were asked to compare the Commission's Web site to those of other organizations. Their responses indicate that their satisfaction ratings for selected elements for the overall USITC Web site were slightly below their ratings for international organizations' Web sites, but generally higher than those for the private sector (table 4-1). The HTS group Web pages ratings were generally higher than the ratings for either international organizations or the private sector. The Commission, as previously noted, revamped its entire Web site during FY 2009 and continued making adjustments in FY 2010.

Formal evaluation of the Commission's Web site began in FY 2005, and FY 2010 was the first year that the Web site has shown a substantial increase in overall satisfaction and other performance elements. Table 4-1 summarizes the results for the overall Web site and the HTS (tariff information) Web pages.

Table 4-1: Satisfaction ratings by users of Commission Web site, FY 2010

	Overall USITC Web site	HTS group Web pages	Private	International organizations
Elements:				
Content	78	79	78	79
Functionality	71	73	69	71
Look and feel	70	71	68	70
Navigation	65	67	63	66
Search	66	67	63	65
Site performance	79	80	79	80
Overall satisfaction	68	70	64	68
Future behaviors:				
Likelihood to return	81	84	83	84
Primary resource	77	80	77	79
Recommend	77	79	75	79

Source: Foresee Results, October 2010.

Revised annual goals for FY 2011 and beyond

As indicated above, certain performance goals for FY 2010 have become less indicative of the Commission's performance, and their utility as quantitative measures of performance have declined. Therefore, for FY 2011 and beyond, the Commission is eliminating the goal of increasing the number of Trade DataWeb downloads (which is more a matter of public demand) and refining the remaining goals. Thus, under the general performance goal of "Dissemination of tariff and trade information services to customers," the Commission will be monitoring more detailed measurement criteria. These include measures for improving or increasing the following:

- Use of the HTS Online Reference Tool
- Success of keyword searches in the HTS Online Reference Tool
- Accuracy of the HTS vis-à-vis the HTS tariff database
- Maintaining or improving the timeliness of the posting of HTS changes
- Maintaining or improving the efficiency of the 484(f) Committee process

Performance goal no. 2: ***Provide timely, effective, and responsive nomenclature and related technical services to customers***		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Obtain 95% positive results on product feedback assessments.	Obtain 95% positive results on responses to e-mail requests concerning HTS.	***Target met:*** On portion of e-mail responses, 100% positive feedback (electronic folder of e-mail responses received from USTR, congressional staff, and the public).
Provide timely and accurate responses to all e-mail requests for tariff advice.	Develop system to measure response time for e-mails received through the HTS on-line help system.	***Target not met:*** 2,539 requests/responses (total in FY 2009 was about 7,800; FY 2008 was closer to 10,000). Feedback uniformly indicated responses were accurate, but sufficient data were not available to monitor timeliness.
	From the date when a batch of miscellaneous tariff bills is assigned, 80% of reports are transmitted to the Congress within 65 working days.	
	To facilitate interagency decisionmaking, 484(f) Committee meeting agenda is prepared at least 3 weeks prior to scheduled meeting and minutes finalized before effective date of changes.	

Under this performance goal, FY 2010 annual goals were aimed at improving the timeliness and accuracy of technical tariff and nomenclature advice provided to customers inside and outside the government. While the Commission estimates that targets were met in this regard, there is room for improving the measurement and verification of those goals. As with Performance Goal No. 1 above, revised annual goals for FY 2011 and beyond are briefly described at the end of this section.

Feedback assessment

Review of informal feedback received in FY 2010 from USTR, congressional staff, and the public shows that the Commission met its goal, as this feedback was uniformly positive. Commission staff were in almost daily contact with USTR regarding the annual Generalized System of Preferences (GSP) review, revising rules of origin for NAFTA, the U.S.-Bahrain FTA, and other FTAs, several bilateral and regional trade agreements, and other activities. USTR feedback was also consistently positive. Similarly, because of tariff legislation activity, Commission personnel were in continual contact with congressional staff throughout the fiscal year; feedback was consistently positive. This outcome was consistent with those during FY 2006–FY 2010.

Quantifying and verifying measurements for monitoring this goal have been informal at best. During FY 2000–FY 2004, the Commission conducted formal focus group discussions with congressional and executive branch staff, when possible. In FY 2004, Commission staff prepared questionnaires for customer feedback, but response was sparse. Nevertheless, numerous informal indications of positive customer response were received, including communications from USTR, congressional committees, the Department of Commerce, the Consumer Product Safety Commission, the Department of Agriculture, the WCO, and the public. 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." During FY 2006–FY 2010, feedback was measured via e-mails and phone calls received. In FY 2011 and beyond, the Commission will use a more formal, automated procedure for quantifying feedback of this kind. This will consist of sequestering e-mail responses and written communications that comment on customer satisfaction or dissatisfaction with the Commission's efforts under Operation No. 4.

Response to tariff inquiries

Commission staff responded to 2,539 automated and other e-mail requests for tariff-related information during FY 2010, representing a decline of almost two-thirds from the number of such requests received in FY 2009. It is likely that the recently implemented HTS Online Reference Tool has dramatically reduced the need to conduct tariff searches by e-mail contact with the Commission. The Commission also received several hundred tariff-related inquiries by telephone during FY 2010.

Feedback received by Commission staff indicates that the agency met its goal to provide accurate responses. However, the agency did not have an automated system in place in FY 2010 with which to track the time taken to respond to these e-mail inquiries; thus, it had no practical or efficient way to monitor response times. The Commission received unsolicited e-mail comments on about 10 percent of responses, and they were uniformly positive; similarly, telephone callers indicated they were consistently satisfied with the tariff information and/or referrals to Customs provided by Commission staff. For FY 2011 and beyond, the Commission is implementing a prototype automated system for monitoring the time it takes to respond to incoming e-mail requests of this kind.

The benefits of this activity are manifold. It enhances and reinforces the working technical and tariff knowledge of Commission staff and serves to direct individual requests, as appropriate, to the proper Customs authority, thereby providing better guidance to the requestors. Further, it fosters frequent contact between Commission staff and the Customs National Import Specialists.

Revised annual goals for FY 2011 and beyond

As with Performance Goal No. 1, annual goals for Performance Goal No. 2 are being refined for more utility in FY 2011 and beyond. In addition to refining the goal concerning feedback and reducing the response time for e-mail tariff inquiries, discussed in this section above, new goals will be added for improving the following:

- Efficiency of the Commission's process for reporting on miscellaneous tariff bills
- Facilitating the work of the interagency Committee for Statistical Annotation of the Tariff Schedules, which the Commission chairs, via timely posting of agenda and minutes

Other Activities

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 111th Congress. During FY 2009, the Commission had prepared 775 reports on Miscellaneous Tariff Bills (MTBs) introduced by the House of Representatives in the 110th Congress. However, because the Senate did not take up tariff legislation in the 110th Congress, no omnibus bill was enacted by the end of the 110th Congress. The House reintroduced its bills as a package in the 111th Congress; the Senate followed suit with new bills and asked the Commission for interim reporting on its bills in November–December 2009, with the aim of enacting legislation by the end of 2009. The Commission provided a database of key data to the Senate Finance Committee in December 2009, but no omnibus legislation was enacted in 2009. Between January and June 2010, the Commission completed and forwarded reports on 477 Senate MTBs, many of which were enacted in August 2010 (P.L. 111-227).

Commission staff continued to work with the interagency ITDS, which is endeavoring to build a single, government-wide, online "window" for importing and exporting activities. In FY 2011 and beyond, it is expected that the Director of the Office of Tariff Affairs and Trade Agreements will serve on the ITDS Board of Directors.

Strategic Operation No. 5: Trade Policy Support

The Commission provides "quick response" support to trade policymakers in the executive branch and Congress by supplying staff-to-staff 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. 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 forums, and includes formal details of staff to USTR, W&M, and SFC.

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

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

FY 2010 Performance

In FY 2010, the Commission had two performance goals and five corresponding annual goals for this Operation. Those performance goals address the provision of 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 depends, in part, on the volume of requests from USTR, SFC, and W&M, which in turn reflects such variables as the legislative calendar, negotiating activity for FTAs and other trade agreements, the election cycle, and economic trends. Most assistance in FY 2010 comprised quick-turnaround data and information requests that were 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 2010, the Commission had mixed results in meeting its performance goals for this Operation, as discussed below.

Performance goal no. 1: ***Provide enhanced real-time, efficient, and effective technical information and analysis to support organizations involved in trade policy formulation***		
FY 2010 annual goal	**FY 2011 annual goal**	**FY 2010 results**
Support 87 trade policy issues by Commission analysis (~2% increase in number of issues over previous goal).	Support 89 tariff, industry, or trade issues by Commission analysis (~2% increase from previous year).	***Target met:*** staff provided assistance on 101 issues.
Resolve technical issues and implement system to enhance secure delivery of unclassified technical assistance products.	Establish capability and procedures to enhance electronic delivery of classified products.	***Target met:*** the secure FTP “drop boxes” have been completed for all three statutory customers.
Analyze information collected by new electronic tracking system to identify potential quality and efficiency improvements.	Revise internal guidelines to improve real-time tracking of requests.	***Target not met:*** analysis indicated inconsistent use of database. Broad guidance document introduced in January did not solve problems. New procedures/assignments/focused guidance to improve data entry are being developed.
	Issue 100% of responses to Congressional letters on time.	

The customers for this Operation face tight deadlines and are developing policies involving many issues. This performance goal focuses staff on providing responses to their requirements in the most timely and useful manner.

Trade policy issue support

The first annual goal for this Operation, providing substantive assistance on 87 trade policy issues, was exceeded during FY 2010, as it has been in recent years (table 5-1). 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.

Table 5-1: Number of trade policy issues supported, FY 2006–FY 2010

Customer	2006	2007	2008	2009	2010
USTR	79	91	103	77	60
Congress	16	28	26	17	41
Total	95	119	129	94	101

Source: IND.

Although the focus of technical assistance products over the past five years has been influenced by the evolution of the trade issues that are deemed relevant, Commission staff has regularly provided information on preferential duty programs and rules of origin, support for trade agreement negotiations, and support for USTR’s litigation efforts in international proceedings. In recent years the Commission has endeavored to deliver more complex and substantive pre-decisional products as technical assistance. Products have increasingly been delivered electronically, and efforts to develop dynamic products (e.g., simulation models, or data files containing tools for manipulation) have been undertaken to better meet the needs of the policymakers. The Commission continues to post a limited number of staff on detail to its statutory customers, although the resources dedicated to this activity have varied for a number of reasons, including resource requirements in other Operations.

In FY 2010, areas of concentration for the Commission's technical assistance included providing information relating to the operation of existing trade preference programs, providing support for teams involved in negotiating and dispute settlement activities, and supporting work on nontariff measures (e.g., standards and technical barriers to trade) at multilateral forums. Assistance involved a variety of activities, including attending meetings, economic modeling, document review, data generation and assessment, and legal analysis. Information was provided on a variety of extractive, service, and manufacturing industries and products, with considerable work in the area of environment-related goods.

In FY 2009, the Commission provided significant assistance to support notification requirements for various multinational organizations. Assistance to support the analysis of policy actions taken, or contemplated, by trading partners addressed both collaborative and retaliatory efforts. Significant resources were dedicated to supporting decisions governing the GSP and comparative analysis of rules of origin in numerous trade agreements.

In FY 2008, work included follow-on efforts associated with reports delivered pursuant to statutory requests under Operation 3, as well as ongoing activities concerning the U.S.-Peru FTA, the proposed U.S.-Colombia FTA, and several other potential trade agreements. Staff provided information on the European Union-Sub-Saharan Africa partnership agreements, information to support deliberations on the New Partnership for Development Act, and simulation modeling to support USTR trade negotiators.

In FY 2007, efforts to provide substantive pre-decisional products included work products examining issues such as post-FTA shifts in trade, the historical and projected impact of preferential duty programs, trade in environmental goods and services, and market access concerns. A pilot program to develop an electronic repository for NAFTA trade negotiation documents was demonstrated to USTR staff.

In FY 2006, work in this Operation focused on the GSP, WTO negotiation support in the services and non-agricultural market access sectors, and trade capacity building. The Commission also significantly increased its commitment of resources to aid USTR's litigation requirements in international forums.

Electronic delivery enhancements

Many of the Commission's technical assistance responses can be delivered via e-mail. However, sometimes the responses involve large data files, or sensitive information, that cannot be attached to e-mails. Historically, the Commission had to load such information onto tangible media formats (e.g., compact disks), which were then typically hand-delivered to the customer. Development and implementation of Web-enabled tools to allow electronic delivery of such products was a new goal for this performance year.

In FY 2010, the OCIO, working with ER, finalized implementation of a technical solution that provides each of the agency's statutory customers with the means to securely download large or sensitive files using file transfer protocols. The "drop box" allows customers immediate access to such information as soon as it is posted by Commission staff. Customer usage has varied, depending on the nature of the information requests.

Electronic tracking of Operation 5 requests and deliverables

The nature of requests for technical support varies widely, from extensive projects requested through ER that may involve multiple personnel and significant resources, to short phone calls or e-mails made directly to a Commission expert that are handled within minutes. This variety has made accurately tracking such activities a challenge. Historically, the Commission has relied on quarterly reporting from the offices involved. This system continues in place. In an effort to track requests in real time, a database was set up and coordinators in each of the three major offices were established. During this performance year, the database existed in tandem with the quarterly reporting system.

Examination of the results from the two tracking systems revealed significant problems with data entry in the real-time system. In January, a technical assistance guidance document was issued and e-mailed to staff. This document provided employees with directions regarding actions they should take when responding to technical assistance requests, including the need to notify members of the Technical Assistance Group. This group includes three Technical Assistance Coordinators (TACs) (one each in the three major operating offices providing such support), who have the responsibility to enter information into the database. Performance of the TACs for this task continued to be uneven. As a result, late in the performance year, TAC responsibility in one office was reassigned and a guidance document for the TACs was drafted. This document was still in development at the end of the performance year.

Performance goal no. 2:
Improve the Commission's communications with its customers to ensure that they understand the agency's capabilities and are able to benefit from its expertise

FY 2010 annual goal	FY 2011 annual goal	FY 2010 results
Conduct a briefing program to proactively inform Congressional oversight committee staff regarding USITC capabilities.	Focus outreach activities on new Congressional oversight committee staff about Commission capabilities.	***Target met:*** ER staff has met with congressional staff to provide information regarding the USITC's capabilities to provide technical assistance.
Provide training on briefing skills to at least 30 employees to enhance small group communication with both internal and statutory customers.	Goal discontinued.	***Target met:*** Four classes were held, with 52 students trained. Practice briefings are contributing to a shared understanding of expectations and effective approaches.
	Seek semi-annual feedback from USTR's designated Commission liaison regarding satisfaction with technical assistance products.	

Many employees at USTR, SFC, and W&M have worked with, and occasionally for, the Commission for years and are well aware of the support the agency can provide. However, all organizations encounter turnover in staff, and new employees in these customer organizations may not be aware of the Commission's ability to support their policymaking activities. In addition, the Commission continually strives to develop new capabilities, and even experienced customers may be unaware of enhancements from which they may be able to benefit. This performance goal is focused on regularly disseminating information to these customers to ensure they are able to benefit fully from the Commission's expertise.

Brief new congressional staff

The Congressional Liaison (CL) in ER has met with both new and established staff on both congressional oversight committees to ensure a robust understanding of the Commission's capabilities for supporting their decision-making and policymaking activities. During this performance period, the CL had meetings or conference calls with Hill staff on 22 separate occasions. This was a new goal for FY 2010.

Related to this effort, in November 2009, the Commission published a protocol document, U.S. International Trade Commission Factfinding Investigation Protocols, for distribution to the Commission's statutory customers. This initiative was the result of a concern that staff turnover, especially in the case of congressional committee staff, had created an information vacuum with respect to the assistance the Commission can provide. This document clearly explains the various avenues available to statutory customers for requesting and receiving factfinding investigations. In addition, the document briefly describes the scope and availability of other forms of assistance, including informal technical assistance and external staff assignments ("details"). This reference is distributed in hard copy during meetings with new USTR and congressional staff and is also available in PDF on the Commission's Internet site.

The Commission also detailed staff to assist congressional committees during the fiscal year. Such details provide an additional path for educating congressional staff about the capabilities of Commission staff and educating Commission staff about the data and analytical needs of statutory customers.

Enhance Commission staff's briefing skills

In addition to written materials and data, Commission staff also provides customers with information in small meetings and briefings. Efficient delivery of information in such circumstances allows the customers to maximize the benefit they can derive from the expertise embodied in Commission staff. To address concerns expressed by upper management about staff capabilities in this area, a series of in-house classes have been provided to enhance the overall skill level of agency personnel. Fifty-two employees have already benefited from such training, and an additional class is scheduled during FY 2011. This was a new goal for FY 2010. Because it measured a process to improve performance, and not performance per se, it has been dropped for 2011. The Commission has replaced it with a goal to seek semi-annual feedback from USTR staff regarding their satisfaction with technical assistance products.

Financial Section

Message from the Director of Administration

I am pleased to present the United States International Trade Commission's financial statements for the FY 2010 Performance and Accountability Report. The independent accounting firm Castro & Company, LLC, monitored by the IG, issued a qualified opinion on the Commission's financial statements. The qualification represents an improvement over FY 2009 when the auditors issued a disclaimer of opinion on the Commission's financial statements. The qualification on the FY 2010 financial statements relates to several issues surrounding the accounting for undelivered orders and other related accounts.

In a year marked by strides in increased accountability, stewardship, and transparency, I am grateful for the dedicated staff of the Commission who worked diligently to increase our accountability for financial resources and the progression of the programs administered by the Commission. While the independent auditors identified four material weaknesses, two significant deficiencies, and one instance of noncompliance, these findings will only spur us on to further strengthen our financial performance in FY 2011.

The Commission has already begun to take corrective actions to address some of the deficiencies identified during the FY 2009 and FY 2010 audits. For example, the Commission has documented how information flows through the organization, performed a gap analysis of control weaknesses, and prepared a comprehensive draft accounting manual. Some deficiencies are the result of long-term and growing human capital and training constraints. However, the Commission will address these issues, as well as other financial management issues, during FY 2011 as we strive to improve our internal controls and financial reporting.

I look forward to working closely with internal and external stakeholders to make further improvements to the Commission's financial management operations in FY 2011.

Sincerely,

Stephen McLaughlin
Director
Office of Administration

OFFICE OF INSPECTOR GENERAL

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

November 10, 2010 OIG-HH-030

Chairman Okun:

This memorandum transmits the results of the audit (OIG-AR-11-02) of the Commission's financial statements for the fiscal years ended September 30, 2010 and 2009. We contracted with the independent certified public accounting firm, Castro & Company LLC, to conduct this audit. The contract required that the audit be conducted in accordance with U.S. generally accepted government auditing standards.

My office has policies and procedures that are designed to provide assurance that work performed by non-Federal auditors complies with U.S. generally accepted government auditing standards. These procedures follow the guidelines provided in the GAO/PCIE Financial Audit Manual (FAM 650).

In connection with this contract, we reviewed Castro & Company's report and related documentation and made inquiries of its representatives. Our involvement in the audit process consisted of monitoring audit activities; reviewing auditor independence and qualifications; attending meetings; participating in discussions; and reviewing audit planning, working papers, conclusions, and results. Our review disclosed no instances where Castro & Company did not comply, in all material respects, with U.S. generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with the U.S. generally accepted government auditing standards. It was not intended to enable us to express, and we do not express, any opinion on the Commission's financial statements. Castro & Company is solely responsible for the audit report dated November 8, 2010 and the conclusions expressed in the report.

Thank you for the cooperation and courtesies extended to both Castro & Company and my staff during this audit.

Sincerely,

Philip Heneghan

Philip M. Heneghan
Inspector General

Castro & Company
Accountants • Consultants

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Independent Auditor's Report

Inspector General
U.S. International Trade Commission

We have audited the accompanying balance sheet of the U.S. International Trade Commission (ITC) as of September 30, 2010, and the related statements of net cost, changes in net position, and budgetary resources for the fiscal year then ended. These financial statements are the responsibility of ITC management. Our responsibility is to express an opinion on these financial statements based on our audit.

We were engaged to audit the accompanying balance sheet of the ITC as of September 30, 2009, and the related statements of net cost, changes in net position, budgetary resources and custodial activity for the fiscal year then ended. Because of the matters discussed in our Independent Auditor's Report dated November 6, 2009, we were unable to 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 custodial activity for the fiscal year then ended.

As discussed in Note 14 to the fiscal year (FY) 2010 financial statements, for comparative purposes, ITC restated numerous line items reflected in the fiscal year 2009 balance sheet, and the related statements of net cost, changes in net position, and budgetary resources. Management determined a restatement of certain FY 2009 balances was necessary to correct several of the material errors identified in our Independent Auditor's Report on Internal Control dated November 6, 2009. However, management was unable to correct many of the deficiencies related to undelivered orders, accounts payable and expenditures. Accordingly, our opinion on the FY 2009 financial statements, as restated for comparative purposes within the FY 2010 financial statements, does not differ from that opinion expressed in our previous report dated November 6, 2009.

Except as discussed in the following paragraph, we conducted our audit in accordance with the auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and, Office of Management and Budget (OMB) Bulletin No. 07-04, *Audit Requirements for Federal Financial Statements*, as amended. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

We were unable to obtain sufficient audit evidence to support ITC's financial statement amounts as of and for the fiscal year ended September 30, 2010 for undelivered orders and the related accounts payable and net position; nor were we able to satisfy ourselves as to the associated balances reported on the balance sheet and statement of budgetary resources by other auditing procedures. As a result,

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we were unable to apply auditing procedures necessary to audit in accordance with the standards and OMB guidance.

In our opinion, except for the effects of such adjustments, if any, as might have been determined to be necessary had we been able to examine evidence regarding the undelivered orders and the related accounts payable and net position, the financial statements referred to in the first paragraph above, present fairly, in all material respects, the financial position of the ITC as of September 30, 2010, and the related statements of net cost, changes in net position, and budgetary resources for the year then ended in conformity with accounting principles generally accepted in the United States of America.

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 OMB Circular No. A-136, *Financial Reporting Requirements*. The other accompanying information has not been subjected to the auditing procedures applied in our audit of the basic financial statements 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. However, we have applied certain limited procedures, which consist principally of inquiries of management regarding the methods of measurement and presentation of the supplementary information. Such information has not been subjected to auditing procedures, and accordingly, we express no opinion on it.

In accordance with *Government Auditing Standards*, we have also issued our reports dated November 8, 2010, 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 should be considered in assessing the results of our audit.

Castro & Company, LLC

November 8, 2010
Alexandria, VA

OFFICE OF INSPECTOR GENERAL

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

November 10, 2010 OIG-HH-031

Chairman Okun:

This memorandum transmits the Independent Auditor's Report on Internal Control (OIG-AR-11-03) associated with the audit the Commission's financial statements for fiscal year 2010. We contracted with the independent certified public accounting firm, Castro & Company LLC, to conduct this audit. The contract required that the audit be conducted in accordance with U.S. generally accepted government auditing standards. These standards require a Report on Internal Control.

My office has policies and procedures that are designed to provide assurance that work performed by non-Federal auditors complies with U.S. generally accepted government auditing standards. These procedures follow the guidelines provided in the GAO/PCIE Financial Audit Manual (FAM650). In connection with this contract, we reviewed Castro & Company's report and related documentation and made inquiries of its representatives. Our involvement in the audit process consisted of monitoring audit activities; reviewing auditor independence and qualifications; attending meetings; participating in discussions; and reviewing audit planning, working papers, conclusions, and results. Our review disclosed no instances where Castro & Company did not comply, in all material respects, with U.S. generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with the U.S. generally accepted government auditing standards. It was not intended to enable us to express, and we do not express, any opinion on the effectiveness of the Commission's internal control. Castro & Company is solely responsible for the audit report dated November 8, 2010 and the conclusions expressed in the report.

Castro & Company's report contains twenty recommendations for corrective action. In the next 30 days, please provide me with your management decisions describing the specific actions that you will take to implement each recommendation.

Thank you for the cooperation and courtesies extended to both Castro & Company and my staff during this audit.

Sincerely,

Philip M. Heneghan
Inspector General

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Independent Auditor's Report on Internal Control

Inspector General
U.S. International Trade Commission

We have audited the financial statements of the U.S. International Trade Commission (ITC) as of and for the year ended September 30, 2010, and have issued our report thereon dated November 8, 2010. The report states except for undelivered orders and other related accounts discussed therein, we expressed an opinion on the balance sheet as of September 30, 2010, and the related statements of net cost, changes in net position, and budgetary resources 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, 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 Statements,* 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 is a deficiency in internal control, or a combination of 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.

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

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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 first four deficiencies described below to be material weaknesses.

We also noted less significant matters involving internal control and its operations which we have reported to ITC management in a separate letter dated November 8, 2010.

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 8, 2010
Alexandria, VA

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MATERIAL WEAKNESSES

I. Inadequate Internal Controls over Financial Reporting (Repeat Condition)

The Accountability of Tax Dollars Act of 2002 (ATDA) extends to ITC the requirement to submit to Congress and the Director of OMB audited financial statements. OMB Circular No. A-136, *Financial Reporting Requirements*, defines the form and content of financial statements to be prepared by the Commission. 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 quarterly 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, 2010 trial balance, along with seven different versions of financial statements and related notes, with the latest version provided on November 2, 2010. Each version provided consistently reflected significant errors. These errors occurred because of ineffective management reviews and approvals to ensure that transactions and adjustments were accurate and properly supported. However, ITC made the necessary corrections to the final issued 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 presented in its financial statements in accordance with applicable guidance. Specifically, we noted the following:

- A significant number of transactions were processed through the use of manual journal vouchers, which were not adequately reviewed or did not contain sufficient detail to support the reason for the manual journal voucher. Although manual journal vouchers in and of themselves are not considered an issue, they do increase the risk for errors.

- The financial statements included accounts that should not have been reported on the face of the financial statements (e.g., Fiduciary Assets) as outlined by the accounting standards.

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- The Notes to the financial statements did not include certain disclosures required by OMB Circular No. A-136.
- Numerous numerical errors and typographical errors were included throughout the financial statements.

OMB Circular No. A-123, *Management's Responsibility for Internal Control* 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.

Effective internal control provides assurance that significant weaknesses in the design or operation of internal control, that could adversely affect the Commission's ability to meet its objectives, would be prevented or detected in a timely manner. However, based on the issues noted above, ITC management needs to strengthen its internal control surrounding financial management to ensure compliance with applicable laws and regulations throughout the year.

Recommendations

We recommend that ITC management:

1. Develop an accounting manual documenting the procedures needed to ensure ITC complies with applicable accounting, financial management and reporting standards and regulations.
2. Review its organizational structure to ensure financial management is adequately staffed with individuals that possess current experience in compiling Federal financial statements.
3. Provide training to financial management personnel on federal accounting and reporting requirements to enhance ITC's ability to compile financial statements and the Performance and Accountability Report in accordance with applicable standards.

II. Insufficient Monitoring, Analysis and Oversight of Financial Operations

ITC does not have adequate policies or procedures, including an accounting manual, in place to sufficiently monitor, analyze, oversee and reconcile its financial operations. During our testing, we noted the following:

- Key management reports (e.g., status of funds/budget execution, open obligations, etc.) were not provided to program managers on a regular basis for review and analysis.

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- Reconciliations between the subsidiary listings and the general ledger on key financial accounts were not performed on a regular basis.
- Development of ITC's operating budget was hampered by the lack of actual expense information from prior years. The lack of such data limited ITC's ability to critically evaluate whether current budget amounts are reflective of the Commission's needs, and undermined management's allocation of funds among programs.
- ITC did not fully comply with the Government Accountability Office (GAO) *Principles of Federal Appropriations Law*, Chapter 4, Section J (pages 271 – 274). In addition, ITC's Transit Benefit program provides a parking subsidy to its employees, which is inconsistent with the requirements of 5 U.S.C. Section 7905, *Programs to encourage commuting by means other than single-occupancy motor vehicles*, Executive Order 13150, *Federal Workforce Transportation*. We also noted this to be an instance of noncompliance in the Independent Auditor's Report on Compliance with Laws and Regulations, dated November 8, 2010.

GAO's *Standards for Internal Control in the Federal Government* states:

> Internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations. It is performed continually and is ingrained in the agency's operations. It includes regular management and supervisory activities, comparisons, reconciliations, and other actions people take in performing their duties.
>
> Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination.
>
> Control activities are an integral part of an entity's planning, implementing, reviewing, and accountability for stewardship of government resources and achieving effective results…They include a wide range of diverse activities such as approvals, authorizations, verifications, reconciliations, performance reviews, maintenance of security, and the creation and maintenance of related records which provide evidence of execution of the activities as well as appropriate documentation.

By not performing management functions specific to monitoring, analysis, oversight and reconciliations, discrepancies may exist but go undetected and uncorrected; thereby causing the financial information to be misstated. Effective management oversight greatly increases ITC's ability to proactively identify and resolve issues that could result in misstatements in financial accounting and reporting records.

Recommendations:

We recommend that ITC management:

4. Identify key management reports needed to enhance ITC's ability to effectively and efficiently manage its operations.

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5. Develop and document procedures to assist management in monitoring, analyzing, overseeing, and reconciling financial data; thereby strengthening internal controls and encouraging a more collaborative management environment.

6. Train employees on how to generate and analyze management reports to ensure there is a comprehensive understanding of management's role and responsibilities surrounding the monitoring and analysis of financial information.

III. Inadequate Controls over Undelivered Orders (i.e., Open Obligations) Accounts Payable, and Expenditures (Repeat Condition)

During our testing, we noted several issues surrounding the accounting for open obligations, accounts payable, and expenditures as summarized below:

- ITC maintained inadequate accounting records to sufficiently support open obligations. We noted several open obligations which were unsupported or invalid as of September 30, 2010. ITC attempted to correct the balance by posting an adjustment in the amount of $1.2 million to reduce its open obligations for invalid obligations. However, the projected error of the unsupported and invalid open obligations indicated that the balance was materially overstated and could not be relied upon for financial reporting purposes.

- A routine and consistent review of obligations was not performed on a regular basis to ensure that obligations incurred were valid as of September 30, 2010.

- ITC does not have any formal policy or procedures specific to its accrual methodology for accounts payable.

- 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. Specifically, several expenditures were recorded in FY 2010 that related to the prior year.

- Management was unable to provide subsidiary ledgers for open obligations and accounts payable in a timely manner.

GAO's *Standards for Internal Control in the Federal Government* states:

> Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.

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The Statement of Federal Financial Accounting Standards (SFFAS) No. 1, *Accounting for Selected Assets and Liabilities* states:

> Accounts payable are amounts owed by a Federal entity for goods and services received from, progress in contract performance made by, and rents due to other entities…When an entity accepts title to goods, whether the goods are delivered or in transit, the entity should recognize a liability for the unpaid amount of the goods. If invoices for those goods are not available when financial statements are prepared, the amounts owed should be estimated.

Section I.A. of OMB Circular No. A-123, states:

> The control environment is the organizational structure and culture created by management and employees to sustain organizational support for effective internal control. When designing, evaluating or modifying the organizational structure, management must clearly demonstrate its commitment to competence in the workplace. Within the organizational structure, management must clearly: define areas of authority and responsibility; appropriately delegate the authority and responsibility throughout the agency; establish a suitable hierarchy for reporting; support appropriate human capital policies for hiring, training, evaluating, counseling, advancing, compensating and disciplining personnel; and uphold the need for personnel to possess and maintain the proper knowledge and skills to perform their assigned duties as well as understand the importance of maintaining effective internal control within the organization.

By not performing a review of open obligations, expenditures, and accounts payable on a routine basis, financial data used to generate management reports or financial reports required by applicable laws and regulations may be over or understated. As noted above, the projected error related to open obligations indicated that the balance was materially overstated as of September 30, 2010 and could not be relied upon for financial reporting purposes.

<u>Recommendations:</u>

We recommend that ITC management:

7. Establish policies for monitoring obligations, operating expenses, and related accounts payable on a routine basis.

8. Document procedures to implement the policies.

9. Train responsible personnel on how to monitor obligations, operating expenses, and accounts payable to enhance compliance with the applicable requirements.

10. Perform a data clean–up for all open obligations and accounts payable documents to ensure that the balances are properly reported, with appropriate adjustments posted at the detailed general ledger level.

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IV. Insufficient Resources and Personnel with Appropriate Skill Sets

ITC did not have adequate resources and personnel with appropriate skill sets and expertise to perform financial management accounting and reporting. Furthermore, ITC has not developed a program to cross train finance personnel in performing day-to-day financial management accounting and financial reporting tasks. For example, the Director of Finance performs the majority of the accounting and reporting responsibilities, which prevents an adequate review and approval process of the financial reporting process.

To address previously identified internal control weaknesses, ITC augmented its staffing through the use of consultants to assist in performing its financial management operations. As a result of these efforts, ITC was able to improve its financial reporting accordingly. However, we noted that ITC placed significant reliance on the consultants for financial management expertise. Although the reliance on consultants may be necessary, in the short-term, to expedite the resolution of the weaknesses identified, ITC needs to ensure that it has the skills and expertise on staff going-forward.

In addition, the Director of Administration had to take on additional responsibilities for information systems, contracting, and facilities management because ITC encountered turnover in these positions throughout the fiscal year. As a result, the quality assurance procedures surrounding the financial reporting environment were adversely affected.

The lack of resources was aggravated by the conversion of the financial system in FY 2009. Specifically, ITC did not have a systems accountant on staff with the expertise of the accounting system. 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.

GAO's *Standards for Internal Control in the Federal Government* states:

> People are what make internal control work. The responsibility for good internal controls rests with all managers. Management sets the objectives, puts the control mechanisms and activities in place, and monitors and evaluates the control. However, all personnel in the organization play important roles in making it happen. All personnel need to possess and maintain a level of competence that allows them to accomplish their assigned duties, as well as understand the importance of developing and implementing good internal control. Management needs to identify appropriate knowledge and skills needed for various jobs and provide needed training, as well as candid and constructive counseling, and performance appraisals.

The need for employees with analytical and federal accounting and reporting competencies will only increase as ITC further integrates its financial management system. Without the adequate staffing levels and the proper skill sets, the ITC will continue to encounter challenges in the financial reporting process including preparing reliable financial reports in a timely manner, and consistent with applicable laws and regulations.

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Recommendations:

We recommend that ITC management:

11. Perform an assessment of current finance staff to ensure that the individuals possess analytical, federal accounting and financial reporting knowledge and experience to enhance the ITC's ability to comply with accounting and financial reporting standards.

12. Evaluate the resources and appropriate skills needed throughout the agency to meet ITC's financial management and reporting responsibilities and implement a plan on achieving the results and recommendations of the evaluation.

13. Provide on-going training to ITC employees on federal accounting and reporting requirements, including training on the accounting service provider's financial system.

SIGNIFICANT DEFICIENCIES

V. Inadequate Controls Surrounding the Identification, Recording, and Reporting of Property, Plant and Equipment (Repeat Condition)

We noted that ITC made significant improvements over the prior fiscal year surrounding the documentation maintained to support balances of property, plant and equipment (PP&E) recorded in the financial statements. However, we noted that ITC did not have sufficient policies or procedures in place throughout the majority of the current fiscal year to account for PP&E in accordance with applicable accounting standards. Specifically, ITC did not:

- Maintain adequate documentation to support the acquisition cost, useful life and in-service date for the majority of the assets recorded by ITC during the first six months of the fiscal year. As a result, ITC had to perform an in-depth review and clean up of its PP&E balances and previously expensed transactions throughout the fiscal year in order to properly state PP&E balances as of September 30th. This effort entailed reviewing all assets acquired since FY 2005 and verifying whether the asset should be capitalized or expensed in accordance with applicable accounting standards. The fact that the Commission was able to accomplish this task in a matter of months is a credit to the Commission.

  As a result of the clean-up efforts from June through September of the current fiscal year, ITC identified and recorded an increase of approximately $3.5 million to PP&E, resulting in a net increase of 115 percent from the PP&E reported in the prior fiscal year. Of this net increase, approximately $3.1 million related to assets which should had been recognized in prior fiscal years; therefore, ITC had to record a prior period adjustment for FY 2009 to recognize the asset's costs and related depreciation.

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- Establish a reimbursable work authorization upfront with the General Services Administration (GSA) to effectively and properly capture leasehold improvements associated with the second floor build-out.

- Clearly document the transactions associated with the prior period adjustment for the restatement of PP&E from expenses to capitalized equipment.

ITC did not have written policies and procedures in place for the majority of the fiscal year to adequately monitor purchases to ensure expenditures were properly expensed or capitalized in accordance with applicable accounting standards.

OMB Circular No. A-123, states:

> 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.

Section II.4.3.3 of OMB Circular No. A-136, *Financial Reporting Requirements*, outlines the FASAB standards applicable to the financial reporting of PP&E to include: SFFAS No. 6, Accounting for Property, Plant, and Equipment, SFFAS No. 11, Amendments to Accounting for Property, Plant, and Equipment-Definitional Changes-Amending SFFAS 6 and SFFAS No. 35, Estimating the Historical Cost of General Property, Plant, and Equipment.

Federal Accounting Standards Advisory Board (FASAB) defines general PP&E as: "Tangible assets that (1) have an estimated useful life of 2 or more years, (2) are not intended for sale in the ordinary course of operations, and (3) are intended to be used or available for use by the entity."

ITC was able to properly state PP&E as of September 30, 2010 as a direct result of a major clean-up effort performed during FY 2010, not as a result of adequate policies and procedures being in place throughout the entire year to effectively monitor, document and record PP&E on a timely basis. Without adequate policies and procedures in place throughout the entire year to effectively monitor, track and document expenditures on an ongoing basis, ITC increased its risk that PP&E or expenditures may be misclassified, causing the amounts reported on the financial statements to be misstated.

Recommendations:

We recommend that ITC management:

14. Review its current policy regarding PP&E to ensure it meets the intended objectives of the accounting standards.

15. Update documented procedures to ensure adequate monitoring and review of purchases to allow for proper recording and reporting as required by applicable accounting standards.

16. Train personnel on the policy and procedures surrounding PP&E to enhance their ability to identify items that should be capitalized rather than expensed.

VI. Inadequate Controls Surrounding the Procurement Process

During testing of procurement, we noted numerous instances where procurement documents were not adequately documented to consistently demonstrate compliance with the requirements of the Federal Acquisition Regulation (FAR). For example, we noted instances where the procurement documents:

- Insufficiently explained the purpose of the services to be provided;
- Were inconsistent and contained numerical errors; and
- Were lacking documentation to support the reason or amount for modifications.

Section 4.801 General of the FAR states:

> (a) The head of each office performing contracting, contract administration, or paying functions shall establish files containing the records of all contractual actions.
> (b) The documentation in the files (see 4.803) shall be sufficient to constitute a complete history of the transaction for the purpose of—
> (1) Providing a complete background as a basis for informed decisions at each step in the acquisition process;
> (2) Supporting actions taken;
> (3) Providing information for reviews and investigations; and
> (4) Furnishing essential facts in the event of litigation or congressional inquiries.

ITC did not have an adequate understanding of the Contracting Officer's role and responsibilities, which included a sufficient review of the procurement documents prior to the release of the documents. In addition to the lack of skill sets and adequate training, ITC did not have written policies and procedures specific to procurement throughout the majority of the fiscal year, which further contributed to the lack of adequate internal controls over the processing, approval, and documentation surrounding procurement efforts.

The FAR is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds. *Section 1.602 Contracting Officers, 1.602-1 Authority, of the FAR states,* "(b) No contract shall be entered into unless the contracting officer ensures that all requirements of law, executive orders, regulations, and all other applicable procedures, including clearances and approvals, have been met."

ITC increases its risk of noncompliance with the FAR by not requiring the Contracting Officer to possess (1) sufficient experience in Government contracting and administration, and commercial purchasing; (2) sound knowledge of acquisition policies and procedures, including the FAR and

Independent Auditor's Report on Internal Control
Page 12

other applicable regulations; and (3) maintaining satisfactory completion of acquisition training courses.

Furthermore, without written policies and specific procedures for ITC individuals responsible for procurement efforts to follow, ITC increases the risks of noncompliance with applicable laws and regulations, and the possibility that a material error or fraud may not be prevented or detected and corrected timely.

Recommendations:

We recommend that ITC management:

17. Establish a policy that requires the Contracting Officer and any other personnel involved in the procurement efforts (e.g., Contracting Officer's Technical Representatives) to adhere to the education and experience requirements outlined by the FAR.

18. Establish procedures related to the procurement process, including proper file documentation to support contract actions.

19. Prepare a detailed checklist to be completed by the Contracting Officer and personnel involved with the procurement action to ensure that for all future procurement actions, the contract file includes all the required documentation to support the contract actions and its compliance with the FAR.

20. Train personnel responsible and accountable for procurement files on the written policies and procedures, and provide additional training to ensure the requirements of the FAR and ITC's policies over procurement are achieved.

Management Response:

ITC's management concurs with the deficiencies identified and described within this report. See attached response from the Commission's Chairman.

Chairman

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

November 8, 2010

Thomas Castro, Partner
Castro & Company, LLC
2121 Eisenhower Avenue, Suite 606
Alexandria, VA 22314

Dear Mr. Castro:

The draft Report on Internal Control identified four material weaknesses and two significant deficiencies. I concur with your assessment that the Commission has inadequate internal controls over financial reporting; insufficient monitoring, analysis and oversight of financial operations; inadequate controls over undelivered orders, accounts payable, and expenditures; and insufficient resources and personnel with appropriate skill sets. I also concur that we have inadequate controls surrounding the identification, recording, and reporting of property, plant and equipment and inadequate controls surrounding the procurement process.

Beginning with your reports on our 2009 financial statements, which highlighted the financial management deficiencies and challenges that the Commission faced, we began developing an aggressive and comprehensive strategy to address the findings. As a result, during fiscal year 2010 the Commission made significant progress in a number of areas that we believe will result in achieving our goal of accountability over Commission assets and operations. For example, we gained visibility and accountability over the Commission's property accounts. We also drafted the first accounting manual that describes in detail the Commission's policies and procedures.

We recognize that we have much more to do and plan to implement each of your recommendations.

Sincerely,

Deanna Tanner Okun

cc: Philip M. Heneghan
Inspector General

OFFICE OF INSPECTOR GENERAL

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

November 10, 2010 OIG-HH-032

Chairman Okun:

This memorandum transmits the Independent Auditor's Report on Compliance with Laws and Regulations (OIG-AR-11-04) associated with the audit of the Commission's financial statements for fiscal year 2010. We contracted with the independent certified public accounting firm, Castro & Company LLC, to conduct this audit. The contract required that the audit be conducted in accordance with U.S. generally accepted government auditing standards. These standards require a report on Compliance with Laws and Regulations.

My office has policies and procedures which assure that work performed by non-Federal auditors complies with U.S. generally accepted government auditing standards. These procedures follow the guidelines provided in the GAO/PCIE Financial Audit Manual (FAM 650).

In connection with this contract, my office reviewed Castro & Company's report and related documentation and made inquiries of its representatives. Our involvement in the audit process consisted of monitoring audit activities; reviewing auditor independence and qualifications; attending meetings; participating in discussions; and reviewing audit planning, working papers, conclusions, and results. Our review disclosed no instances where Castro & Company did not comply, in all material respects, with U.S. generally accepted government auditing standards. However, our review cannot be construed as an audit in accordance with the U.S. generally accepted government auditing standards. It was not intended to enable us to express, and we do not express, any opinion on the Commission's compliance with laws and regulations. Castro & Company is solely responsible for the audit report dated November 8, 2010 and the conclusions expressed in the report.

Based on the conclusion reached in Castro & Company's report, I recommend that:

1. The Commission seek advice from the General Counsel on how to make the transit program fully compliant with applicable laws and regulations; and
2. The Commission bring the transit program into compliance.

In the next 30 days, please provide me with your management decisions describing the specific actions that you will take to implement these two recommendations.

Sincerely,

Philip M. Heneghan
Inspector General

Castro & Company
Accountants • Consultants

2121 Eisenhower Ave.
Suite 606
Alexandria, VA 22314
Phone: 703.229.4440
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www.castroco.com

Independent Auditor's Report on Compliance with Laws and Regulations

Inspector General
U.S. International Trade Commission

We have audited the financial statements of the U.S. International Trade Commission (ITC) as of and for the year ended September 30, 2010, and have issued our report thereon dated November 8, 2010. The report states except for undelivered orders and other related accounts discussed therein, we expressed an opinion on the balance sheet as of September 30, 2010, and the related statements of net cost, changes in net position, and budgetary resources 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 Integrity 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 policies described in the preceding paragraph disclosed one instance of reportable noncompliance that is required to be reported under *Government Auditing Standards* or OMB guidance and is described in the following paragraphs.

Title 5 United States Code (U.S.C.) Section 7905, *Programs to encourage commuting by means other than single-occupancy motor vehicles*, "allows a program to involve such options as Transit passes; Furnishing space, facilities, or services to bicyclists; and any non-monetary [incentive] which the agency head may otherwise offer under any other provision of law or other authority." Furthermore, Executive Order 13150 requires, "by no later than October 1, 2000, Federal agencies shall implement a transportation fringe benefit program that offers qualified Federal employees the option to exclude from taxable wages and compensation, consistent with section 132 of title 26, United States Code, employee commuting costs incurred through the use of mass transportation and vanpools, not to exceed the maximum level allowed by law."

The Government Accountability Office's (GAO) *Principles of Federal Appropriations Law*, Chapter 4, Section J (pages 271–274) states, "agencies must generally obtain parking accommodations through the General Services Administration (GSA) under the Federal Property and Administrative Services Act of 1949, as amended (Ch. 288, 63 Stat. 377 (June 30, 1949)), unless they have independent statutory authority or a delegation from GSA."

ITC does not have independent statutory or delegated authority to procure space and facilities to provide for employee parking. As such, ITC's program provides benefits that do not fully comply with the requirements of *GAO Principles of Federal Appropriations Law*. In addition, ITC's

Independent Auditor's Report on Compliance with Laws and Regulations
Page 2

program is also inconsistent with the requirements of 5 U.S.C. Section 7905, *Programs to encourage commuting by means other than single-occupancy motor vehicles*, and Executive Order 13150, *Federal Workforce Transportation*.

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, GAO, and Congress, and is not intended to be and should not be used by anyone other than these specified parties.

Castro & Company, LLC

November 8, 2010
Alexandria, VA

Chairman

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

November 8, 2010

Thomas Castro, Partner
Castro & Company, LLC
2121 Eisenhower Avenue, Suite 606
Alexandria, VA 22314

Dear Mr. Castro:

The draft Report on Compliance with Laws and Regulations identified one instance of non-compliance related to the Commission's transit subsidy and parking program. I have asked our General Counsel to analyze the laws surrounding the program and provide recommendations for how to bring the Commission into compliance.

Thank you for bringing this instance of non-compliance to our attention; we will resolve it as quickly as possible.

Sincerely,

Deanna Tanner Okun

cc: Philip M. Heneghan
Inspector General

U.S. International Trade Commission
Balance Sheet
As of September 30, 2010 and 2009
(in dollars)

		2010		2009 Restated Unaudited
Assets:				
Intragovernmental:				
Fund balance with Treasury (Note 2)	$	13,684,392	$	9,946,456
Accounts receivable (Note 3)		80,216		211,236
Total intragovernmental		13,764,608		10,157,692
Accounts receivable (Note 3)		83,289		13,245
Property, plant, and equipment, net (Note 4)		6,504,939		6,101,047
Total assets	$	20,352,836	$	16,271,984
Liabilities:				
Intragovernmental:				
Accounts payable (Note 6)	$	967,464	$	587,016
Employer contributions and payroll taxes payable (Note 5)		559,732		498,460
Unfunded FECA liability (Note 5)		27,208		19,194
Total intragovernmental		1,554,404		1,104,670
Accounts payable (Note 6)		1,763,073		955,666
Accrued funded payroll (Note 5)		2,331,238		2,305,998
Actuarial FECA liability (Note 5)		139,738		51,661
Unfunded leave (Note 5)		3,754,341		3,444,392
Total liabilities		9,542,794		7,862,387
Net position:				
Unexpended appropriations		8,062,885		5,599,315
Cumulative results of operations		2,747,157		2,810,282
Total net position		10,810,042		8,409,597
Total liabilities and net position	$	20,352,836	$	16,271,984

The accompanying notes are an integral part of these statements.

U.S. International Trade Commission
Statement of Net Cost
For the Years Ended September 30, 2010 and 2009

(in dollars)

		2010		2009 Restated Unaudited
Program costs:				
Total program costs	$	83,561,963	$	78,717,816

The accompanying notes are an integral part of these statements.

U.S. International Trade Commission
Statement of Changes in Net Position
For the Years Ended September 30, 2010 and 2009
(in dollars)

		2010		2009 Restated Unaudited
Cumulative Results of Operations:				
Beginning balance	$	2,810,282	$	1,260,061
Adjustments:				
Correction of error (Note 14)		-		1,654,671
Beginning balance, as adjusted		2,810,282		2,914,732
Budgetary Financing Sources:				
Appropriations used		79,396,430		75,339,697
Other Financing Sources (Non-Exchange):				
Imputed financing costs (Note 10)		4,102,408		3,273,669
Total Financing Sources		83,498,838		78,613,366
Net Cost of Operations		(83,561,963)		(78,717,816)
Net Change		(63,125)		(104,450)
Cumulative Results of Operations		2,747,157		2,810,282
Unexpended Appropriations:				
Beginning balance		6,186,331		5,839,012
Prior period adjustments due to correction of errors		(587,016)		-
Beginning balance, as adjusted		5,599,315		5,839,012
Budgetary Financing Sources:				
Appropriations received		81,860,000		75,100,000
Appropriations used		(79,396,430)		(75,339,697)
Total budgetary financing sources		2,463,570		(239,697)
Total unexpended appropriations		8,062,885		5,599,315
Net Position	$	10,810,042	$	8,409,597

The accompanying notes are an integral part of these statements.

U.S. International Trade Commission
Statement of Budgetary Resources
For the Years Ended September 30, 2010 and 2009
(in dollars)

		2010		2009 Restated Unaudited
Budgetary Resources:				
Unobligated balance, brought forward, October 1	$	425,340	$	322,370
Recoveries of prior year unpaid obligations		1,284,427		206,200
Total resources from prior year				
Budget authority:				
Appropriation (Note 1)		81,860,000		75,100,000
Spending authority from offsetting collections:				
Earned				
Collected		5,665		800
Change in receivables from federal sources		(131,020)		211,236
Total budgetary resources	$	83,444,412	$	75,840,606
Status of Budgetary Resources:				
Obligations incurred:				
Direct (Note 15)	$	81,372,789	$	75,415,266
Unobligated balance:				
Available		2,071,623		425,340
Total status of budgetary resources	$	83,444,412	$	75,840,606
Change in Obligated Balance:				
Obligated balance, net				
Unpaid obligations, brought forward, October 1	$	9,732,352	$	8,927,377
Uncollected customer payments from federal sources		(211,236)		-
Total unpaid obligated balance, net		9,521,116		8,927,377
Obligations Incurred, net		81,372,789		75,415,266
Gross outlays		(78,127,729)		(74,404,091)
Recoveries of prior year unpaid obligations, actual		(1,284,427)		(206,200)
Change in uncollected payments from federal sources		131,020		(211,236)
Obligated balance, net, end of period:				
Unpaid obligations		11,692,985		9,732,352
Uncollected customer payments from federal sources		(80,216)		(211,236)
Total, unpaid obligated balance, net, end of period	$	11,612,769	$	9,521,116
Net Outlays				
Net outlays:				
Gross outlays		78,127,729		74,404,091
Offsetting collections		(5,665)		(800)
Net outlays	$	78,122,064	$	74,403,291

The accompanying notes are an integral part of these statements.

United States International Trade Commission
Notes to Financial Statements
September 30, 2010 and 2009

Note 1. Significant Accounting Policies

A. Reporting Entity

The Commission is an independent agency of the U.S. Government created by an act of Congress and is headed by six commissioners, appointed by the President and confirmed by the U.S. Senate for nine-year terms. The President designates the chairman and vice chairman, each of whom serve two-year terms. The USITC's budget constitutes a single program in the Budget of the United States. Accordingly, the USITC receives a lump sum appropriation. The appropriated funds are "no year" funds and may be obligated for goods and services that are provided in subsequent fiscal years.

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

B. Basis of Accounting and Presentation

The USITC's financial statements conform to GAAP as promulgated by the 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, plant, and equipment, as well as the recognition of other long-term assets and liabilities. The statements were prepared in conformity with OMB Circular No. A-136, *Financial Reporting Requirements*.

The financial statements have been prepared from the books and records of the USITC and include all accounts of all funds under the control of the USITC. Accounting principles generally accepted in the United States of America encompass both accrual and budgetary transactions. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of federal funds. The accompanying financial statements are prepared on the accrual basis of accounting. The USITC's fiscal year is October 1 through September 30. FY 2010 and FY 2009 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 USITC's balance sheet. Fiduciary assets are not assets of the USITC and are not recognized on the balance sheet. The USITC holds cease and desist bonds, which are held for non-federal parties that the USITC does not have the authority to use in its operations. See Note 12, Fiduciary Activities, for additional disclosure.

Financing Sources: The USITC has received "no year" appropriations for operations since FY 1993. Appropriations are recognized as a financing source and expensed when related operating expenses are incurred. Differences between appropriations received and those expensed are included as unexpended appropriations. Congress appropriated to the USITC $81,860,000 and $75,100,000 for salaries and expenses in FY 2010 and FY 2009, 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 USITC's obligated and unobligated fund balances are carried forward until goods or services are received and payments are made, or until such time as funds are deobligated.

C. Property, Plant, and Equipment, Net

The USITC's portfolio of assets includes IT-related equipment, furniture, software, and leasehold improvements. For financial statement reporting purposes, the USITC does not own heritage assets or plant, as defined in the FASAB, SFFAS No. 6, *Accounting for Property, Plant, and Equipment*. The USITC therefore reports only property and equipment in its financial statements. The USITC's operations are housed in a leased structure. In FY 2007, the USITC entered into a 10-year operating lease for the facility that houses its day-to-day mission operations.

The USITC capitalizes all equipment and furniture when an asset acquisition costs $50,000 or more and when the acquired asset has a useful life of two or more years. Depreciation expense for equipment and furniture is calculated using the straight-line method over an estimated economic useful life. Maintenance and license fees associated with equipment are expensed in the accounting period that purchased maintenance and licenses are received.

The USITC capitalizes internal use software (IUS) using the standards defined and prescribed in the SFFAS No. 10, the *Accounting for Internal Use Software* and further explained and clarified in the "Federal Financial Accounting and Auditing Technical Release 5, Implementation Guidance on Statement of Federal Financial Accounting Standards 10: Accounting for Internal Use Software." Accordingly, the USITC begins to accumulate IUS development costs for equipment integral to the functioning and operation of the software, as well as costs for development work associated with an IUS project when accumulated costs reach $10,000. When the combined accumulated equipment and IUS development costs reach $100,000, the IUS project is classified for financial statement reporting purposes as a capital asset and reported in the financial statements as an "in progress" capital asset. Equipment integral to the functioning and operation of the software is not depreciated until the software is placed in service. Upon completion and user acceptance testing, IUS and its associated equipment are reclassified as IUS equipment and software. The equipment is depreciated and the software is amortized using the straight-line (S/L) method over an estimated economic useful life. Maintenance and license fees associated with an IUS capital asset are accrued, expensed, and allocated between accounting periods based on period-of-performance timeframes specified in contractual agreements. Commercial software costs that do not meet the capitalization criteria and thresholds are expensed in the accounting period that the purchased software is received.

The USITC capitalizes all leasehold improvement acquisition costs that are $50,000 or more and that have a useful life of two or more years. The USITC applies the same accounting treatment and standards to leasehold improvements as it does for IUS, when the leasehold improvement involves multiple stages of completion before work acceptance. For financial reporting purposes, all accumulated costs are captured in an "in progress" account and reported on the financial statements. Upon completion and acceptance of work, the costs are reclassified and reported on the financial statements as a leasehold improvement subject to amortization. Leasehold improvements are amortized over either the remaining life of lease term or the estimated economic useful life of the leasehold improvement, whichever is less.

In FY 2009, as noted earlier, the independent auditor issued a disclaimer of opinion because of material weaknesses in the USITC's internal controls over financial reporting, analyses, and oversight. One component of this material weakness was the USITC's inability to correctly identify, record, and report balance sheet balances, the associated expenses on its statements of net cost, and changes in net position for its property and equipment. During FY 2010, the USITC conducted a deliberate, comprehensive, and systematic review of its transactional records to identify all property, equipment, IUS and leasehold improvements that should be capitalized. Note 4 to the accompanying financial statements describe in more detail the review and its results.

D. Accrued Annual Leave

Accrued annual leave is paid from future funding sources and accordingly is reflected as a liability not covered by budgetary resources. Each quarter the balance in the accrued leave account is adjusted to reflect the current leave balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken.

E. Employee Retirement Plans

Commission employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), which became effective on January 1, 1987. Most federal employees hired after December 31, 1983, are automatically covered by FERS and Social Security. For employees covered by CSRS, the USITC withheld 7.0 percent of base pay earnings. The Commission matches this withholding, and the sum of the withholding and the matching funds is transferred to the Civil Service Retirement System.

FERS contributions made by employer agencies and covered employees are comparable to the U.S. Government's estimated service costs. For FERS covered employees, the Commission made contributions of 11.2 percent of basic pay. Employees participating in FERS are covered under the *Federal Insurance Contribution Act (FICA)* for which the Commission contributes a matching amount to the Social Security Administration.

F. Net Position

Net position is the residual difference between assets and liabilities and is composed of unexpended appropriations and cumulative results of 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 USITC's operations since inception.

G. Intragovernmental Activities

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

H. Use of Estimates

The financial statements are based on the selection of accounting policies and the application of certain accounting estimates, some of which require management to make significant assumptions. Further, the estimates are based on current conditions that may change in the future. Actual results could differ materially from the estimated amounts. The financial statements include information to assist in understanding the effect of changes in assumptions to the related information.

I. Change in Accounting Policies

During FY 2010, the USITC changed its financial management policies, effective for the FY 2010 and 2009 financial statements. In particular, the USITC revised its policy with respect to capitalization of assets, accrual of expenses, and recognition of receivables.

J. Reclassifications

Certain prior-year amounts have been reclassified to conform to classifications adopted in FY 2010. This reclassification had no impact on USITC's results of operations.

Note 2. Fund Balances with Treasury

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

The Fund Balance with Treasury increased by $3,737,936 or 37.6 percent in FY 2010 from FY 2009. No discrepancies exist between the Fund Balance reflected in the general ledger and the balance in the Treasury accounts.

Fund Balances with Treasury	FY 2010	FY 2009 Restated Unaudited
A. Fund balances:		
Appropriated funds	$ 13,684,392	$ 9,946,456
Total	$ 13,684,392	$ 9,946,456
B. Status of Fund Balance with Treasury		
Unobligated balance available	$ 2,071,623	$ 425,340
Obligated balance not yet disbursed	11,612,769	9,521,116
Total	$ 13,684,392	$ 9,946,456

Note 3. Accounts Receivable

The balance of accounts receivable was $163,505 and $224,481 at September 30, 2010 and September 30, 2009, respectively. In FY 2010 the USITC reflected a receivable from GSA for overcharging on taxes in the amount of $80,216. In FY 2009, the USITC also recorded an intragovernmental accounts receivable from GPO in the amount of $211,236.

Receivable Type	FY 2010	FY 2009 Restated Unaudited
Intragovernmental	$ 80,216	$211,236
Non-governmental	83,289	13,245
Total	$163,505	$224,481

Note 4. Property, Plant, and Equipment, Net

During FY 2010, USITC conducted a capital asset identification project to identify all acquisitions appropriate for capitalization. The project spanned the six fiscal-year period 2005 through 2010. The USITC performed this deliberate, comprehensive, and systematic review to identify all property, equipment, IUS, and leasehold improvements that it should capitalize, depreciate or amortize, and report on the USITC's balance sheet, and include in the related statements of net cost and changes in net position.

The project encompassed a detailed review, analysis, and validation of all acquisition data and transactions from the USITC's procurement system which included expenditure plans, work orders, vendor invoices, and Treasury payment vouchers for the six-year period. Review, analysis, and validation of over 21,000 records yielded 36 acquisitions appropriate for capitalization. The table below shows the breakout of the 36 capital assets by property class and fiscal year that the class of asset was placed in service.

		FY Placed in Service		
Class of Property	Total	2010	2009	2008 and Prior
Equipment	19	11	5	3
Furniture	1	-	1	-
Software	4	1	3	-
Software in progress	0	*	*	*
Leasehold improvements	10	1	1	8
Leasehold improvements in progress	2	2*	*	*
Total	36	15	10	11

* Excludes projects in process that were placed in service prior to October 1, 2010.

The results of the detailed analysis and validation and its affect on the FY 2010 and FY 2009 financial statements are shown in the property and equipment summary tables below.

Property, Plant, and Equipment as of September 30, 2010

Class of Property	Depreciation/ Amortization Method	Capitalization Threshold for Individual Purchases	Service Life (Years)	Acquisition Cost	Accumulated Depreciation/ Amortization	Book Value
Equipment and Furniture	S/L	$ 50,000	5	$ 3,619,865	$1,631,772	$1,988,093
Software	S/L	$100,000	5	3,639,811	1,051,485	2,588,326
Software in Progress	-	-	-	0	0	0
Leasehold Improvements	S/L	$ 50,000	-*	2,612,284	875,171	1,737,113
Leasehold Improvements in Progress	-	-	-	191,407	0	191,407
Total				$10,063,367	$3,558,428	$6,504,939

Property, Plant, and Equipment as of September 30, 2009 (Restated Unaudited)

Class of Property	Depreciation/ Amortization Method	Capitalization Threshold for Individual Purchases	Service Life (Years)	Acquisition Cost	Accumulated Depreciation/ Amortization	Book Value Restated Unaudited
Equipment and Furniture	S/L	$ 50,000	5	$2,156,338	$979,105	$1,177,233
Software	S/L	$100,000	5	3,416,464	365,538	3,050,926
Software in Progress	-	-	-	68,987	0	68,987
Leasehold Improvements	S/L	$50,000	-*	2,440,984	637,083	1,803,901
Leasehold Improvements in Progress	-	-	-	0	0	0
Total				$8,082,773	$1,981,726	$6,101,047

*Leasehold improvements are capitalized and amortized over the life of the lease term (plus any reasonably certain lease extension) or the life of the improvement, whichever is shorter.

Note 5. Liabilities Not Covered by Budgetary Resources

Liabilities not covered by budgetary authority are not charged to the USITC's appropriation. These liabilities include unfunded Federal Employees' Compensation Act (FECA) liability, accrued annual leave, and actuarial FECA liability.

Unfunded FECA Liability: The FECA program is administered by the Department of Labor (DOL). DOL pays valid claims against the USITC and subsequently seeks reimbursement. Reimbursements are paid by the USITC out of current funds.

Accrued Annual Leave: Accrued annual leave is paid from future funding sources and accordingly is reflected as a liability not covered by budgetary resources. Each quarter the balance in the accrued leave account is adjusted to reflect the current leave balances and pay rates. Sick leave and other types of non-vested leave are expensed as taken.

Actuarial FECA Liability: This represents an estimated liability for future workers compensation claims based on data provided from DOL. DOL calculates the estimate based principally on benefit payments made over the prior 12 quarters from DOL. DOL calculates the estimate based principally on benefit payments made over the prior 12 quarters.

Liabilities Covered by Budgetary Resources: In contrast to the liabilities identified above, all other liabilities are charged to the USITC's appropriation and thus are covered by budgetary resources. These liabilities include accounts payable, employer contributions, payroll taxes, and accrued funded payroll. The composition of accounts payable is described in more detail in Note 6, below.

Liabilities Not Covered by Budgetary Resources		FY 2010		FY 2009 Restated Unaudited
Intragovernmental				
Unfunded FECA liability	$	27,208	$	19,194
Total intragovernmental	$	27,208	$	19,194
Accrued annual leave		3, 754,341		3,444,392
Actuarial FECA liability		139,738		51,661
Total liabilities not covered by budgetary resources		3,921,287		3,515,247
Total liabilities covered by budgetary resources		5,621,507		4,347,140
Total liabilities	$	9,542,794	$	7,862,387

Note 6. Accounts Payable

The amounts reported on the Balance Sheet for Accounts Payable represent amounts owed by the USITC to other federal agencies (intragovernmental) and to non-federal entities for goods and services received but not paid by the USITC as of the Balance Sheet date.

The $360,186 reported below as accounts payable to trading partners includes amounts owed to the Office of Personnel Management (OPM), Department of Agriculture (USDA) and to the General Services Administration (GSA) for human resources training and support services, consulting services and training. Accounts payable to trading partners fluctuate from year to year.

The amounts reported below as real estate taxes payable, $607,278 and $587,016, represent the first nine months of unpaid property tax liability for calendar years 2010 and 2009 respectively. These amounts represent taxes that are invoiced and paid annually in August for the previous calendar year to the GSA. Thus, each fiscal year the Commission recognizes twelve months real estate tax expense- three months of actual expense (Oct.-Dec.) and nine months of accrued expense (Jan.-Sept.)- as payable at the end of the fiscal year. The Commission has received notification from GSA that the real estate tax liability is decreasing for FY 2011 due to a reduction in the assessed property values. As a result the Commission expects that the expense for real estate tax will decrease next year.

Amounts shown on the Balance Sheet as payable to vendors represent amounts owed by the USITC to non-federal entities for goods and services received by the USITC in support of mission operations related to vendor invoices that have not been received or paid by the USITC as of the Balance Sheet date.

Accounts Payable	FY 2010	FY 2009 Restated Unaudited
Intragovernmental		
Accounts payable to trading partners	$ 360,186	$ 0
Real estate taxes payable	607,278	587,016
Total intragovernmental	967,464	587,016
Non-federal		
Accounts payable to vendors	1,763,073	955,666
Total accounts payable	$ 2,730,537	$ 1,542,682

Note 7. Commitments and Contingencies

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

Note 8. Leases

The USITC has no capital leases. The USITC has operating leases for its buildings and for certain equipment (e.g., copiers). The USITC's lease for its headquarters building amounted to $9.2 million for FY 2010 and $9.0 million for FY 2009. In FY 2010, the USITC acquired additional space in its headquarters building to accommodate an additional courtroom and office space. The total cost of equipment rental is less than $500,000 annually.

Note 9. Gross Cost by Budget Functional Classification

The Statement of Net Cost for the USITC uses a Budget Functional Classification (BFC) code. BFC codes are used to classify budget resources presented in the Budget of the United States Government per OMB. The agency's total net cost was $83,561,963 for FY 2010 and $78,717,816 for FY 2009.

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 USITC has recognized an "imputed financing" equal to the difference between the cost of providing benefits to USITC's employees and the contributions the USITC remitted for them. The amount of imputed financing is calculated based on a formula provided by OPM.

Note 11. Explanation of Difference between the Statement of Budgetary Resources and the Budget of the United States Government

For FY 2009 there were no material differences between amounts reported in the Commission's Statement of Budgetary Resources and the actual amounts reported on the President's Budget. The President's Budget with actual numbers for FY 2010 has not yet been published. It is expected to be published by the Office of the President in February 2011.

Note 12. Undelivered Orders at the End of the Period

Undelivered orders consist of goods and services ordered and obligated that have not been received. Undelivered orders may be indicative of potential deobligations or may represent obligations to cover future delivery of good and services. Since the USITC has "no year" funds, it often funds contracts, particularly service contracts, on a calendar year or other annual basis, rather than on a fiscal year basis. Undelivered orders were $6,070,808 and $5,385,211 in FY 2010 and FY 2009, respectively. The increase in undelivered orders was due to obligations to pay for renovation of the second floor of the USITC headquarters building.

Note 13. Fiduciary Activities

Fiduciary activities are the collection or receipt, and the management, protection, accounting, investment and disposition by the federal government of cash or other assets in which non-federal individuals or entities have an ownership interest that the federal government must uphold.

Fiduciary cash and other assets are not assets of the federal government and accordingly are not recognized on the balance sheet.

Fiduciary net assets held by the USITC consist of cease and desist bonds held for non-Federal recipients.

Fiduciary Assets	FY 2010	FY 2009 Restated Unaudited
Fiduciary net assets, beginning of year	$ 343,326	$ 0
Cash collections from cease and desist bonds	84,910	343,326
Cash disbursements to beneficiaries	(32,910)	0
Fiduciary net assets, end of year	$ 395,326	$ 343,326

Note 14. Restatements

The USITC's FY 2009 financial statements have been restated to include the effects for correction of errors and of changes in accounting policy regarding property, plant, and equipment. This change included the addition of 32 capital assets. Also included is the removal of Fiduciary Assets from the financial statements and inclusion in the footnotes in accordance with FASAB Standard 31 (the fiduciary information for the cease and desist bonds is now contained in Note 13). In addition, USITC recognized a federal receivable from GPO that was not included in the FY 2009 financial statements, and a federal payable to GSA for real estate taxes. The restated amounts are reflected below.

Restated Accounts	Originally Reported FY 2009	Unaudited and Restated FY 2009	Effective Change
Balance Sheet			
Fund balance With Treasury	$10,294,388	$9,946,456	$ (347,932)
Property, plant and equipment	3,029,114	6,101,047	3,071,933
Intragovernmental liabilities	865,586	1,104,670	239,084
Unexpended appropriations	6,186,331	5,599,315	(587,016)
Beginning cumulative results of operations	(261,651)	2,810,282	3,071,933
Net position	5,924,680	8,409,597	2,484,917
Statement of Net Cost			
Total program costs	79,256,457	78,717,816	(538,641)
Statement of Changes in Net Position			
Beginning balance – Cumulative results of operations	(693,016)	1,260,061	1,953,077
Expended appropriations used	74,759,481	75,339,697	580,216
Net costs of operations	79,256,457	78,717,816	(538,641)
Cumulative results of operations	(261,651)	2,810,282	3,071,933
Beginning balance, as adjusted	0	5,599,315	5,599,315
Net position	5,924,680	8,409,597	2,484,917
Statement of Budgetary Resources			
Other federal receivables	0	211,236	211,236
Total budgetary resources	75,629,370	75,840,606	211,236
Total status of budgetary resources	75,629,370	75,840,606	211,236
Change in receivables from federal sources	0	(211,236)	(211,236)
Uncollected customer payments from federal sources	0	(211,236)	(211,236)
Total unpaid obligated balance, net end of period	$9,732,352	$9,521,116	$(211,236)

Note 15. Reconciliation of Net Cost of Operations to Budget

A reconciliation of net cost 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 2010, the USITC reconciled the difference between the $81.4 million in obligated resources and the $83.5 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:

Reconciliation of Net Cost of Operations to Budget	FY 2010	FY 2009 Restated Unaudited
Resources used to finance activities:		
Budgetary resources obligated:		
Obligations incurred	$ 81,372,789	$ 75,415,266
Less: Spending authority from offsetting collections and recoveries	1,290,092	207,000
Net obligations	80,082,697	75,208,266
Other Resources:		
Imputed financing from costs absorbed by others	4,102,408	3,273,669
Total resources used to finance activities	84,185,105	78,481,935
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	686,266	(131,431)
Resources that fund expenses recognized in prior periods	(60,976)	217,681
Resources that finance the acquisition of assets	1,982,275	2,963,675
Other resources or adjustments that do not affect net cost of operations	-	6,800
Total resources used to finance items not part of the net cost of operations	2,607,565	3,056,725
Total resources used to finance the net cost of operations	81,557,540	74,425,210
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	309,949	72,557
Workers' compensation	96,091	1,411
Components requiring or generating resources in future periods	406,040	73,968
Components not requiring or generating resources:		
Depreciation and amortization	1,578,383	1,143,506
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	1,984,423	3,292,606
Net cost of operations	$ 83,561,963	$ 78,717,816

Other Accompanying Information

Management Challenges

OFFICE OF INSPECTOR GENERAL

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

October 15, 2010 OIG-HH-027

Chairman Okun:

This memorandum transmits the Inspector General's summary of the top management and performance challenges facing the Commission and briefly assesses management's progress in addressing these challenges.

I have identified three management challenges for fiscal year 2011; Internal Controls, Financial Management, and Information Technology Security. These challenges were identified based on work by the Office of Inspector General, input from Commission management, and knowledge of the Commission's programs and operations.

<u>Internal Controls:</u> The Commission's management is responsible for establishing and maintaining a system of internal controls that can ensure effective and efficient operations, reliable financial reporting, and compliance with laws and regulations. Reviews performed over the past year have identified issues associated with weak or non-existent internal controls. The most significant weaknesses identified were noncompliance with the *Federal Manager's Financial Integrity Act* and OMB Circular A-123, *Management's Responsibility for Internal Control*.

Although initially identified in the financial management area, the internal control weaknesses appear to be a systemic problem throughout the Commission. The Commission has a long standing culture of undocumented and informal processes to complete daily tasks. Documented and consistent processes and procedures are necessary to provide a reasonable level of assurance that the administrative units are operating in an efficient and cost-effective manner. The most significant challenge will be to manage the cultural changes associated with the implementing new systems of internal control throughout the Commission.

The Commission is addressing the internal control weaknesses related to financial statement preparation. In March, a contract was awarded to a firm to review and evaluate existing internal controls, design and implement a comprehensive, agency-wide internal control system that will comply with applicable laws and regulations and to provide temporary staffing in order to support the creation of the new internal control program.

Financial Management: The Commission is responsible to ensure that managers have access to timely, reliable, and practical information to make informed decisions. The Commission does not have the systems or core competencies required to integrate and coordinate budget formulation, execution, and financial reporting into a comprehensive financial management program that provides accountability for agency funds and provides essential data to managers for decision making purposes.

The Commission's budget formulation and execution process is not transparent because information on past execution in not available to decision makers. This means that decisions impacting resource allocations for agency operations are being made without sufficient input from key stakeholders who have the necessary information. The lack of communication with stakeholders, documented procedures, and defined methodologies for determining budget priorities does not provide reasonable assurance that all the Commission priorities are being considered when budget decisions are being made.

The Commission does not have the appropriate technical systems expertise to provide managers with adequate, timely financial information to administer budget execution activities. The lack of timely and practical financial reports deprive managers of information needed to effectively monitor the expenditure of funds, evaluate program performance, and make informed financial decisions on their programs and operations.

The Commission does not have the necessary technical and analytical skills required to provide the appropriate management of agency resources in accordance with laws and regulations. Budget formulation, budget execution, accounting, and financial reporting should be fully integrated and have transparent processes that promote accountability and deter potential fraud, waste, and abuse of agency budgetary resources. The management challenge will be to transform the current approach to financial management from an accounting exercise to a process that provides transparency and accountability in the formulation, execution, performance, and management of agency budgetary resources.

As a result of its disclaimer on the 2009 financial statements the Commission has recognized the importance and necessity of instituting a system of stronger internal controls and is implementing corrective actions to address financial management deficiencies.

Information Technology Security: In order for the Commission to fulfill its core strategic goals, the public must trust that their proprietary business information will be protected. The Commission must ensure that the proper security controls are in place to protect and secure sensitive data. Information technology is a constantly evolving field. As a result, the Commission faces many challenges and must remain diligent in its efforts to maintain the security, integrity, and availability of agency systems.

The use of information technology is an integral component of the Commission's day-to-day operations, including communications with the public. The Commission currently does not have a disaster contingency plan in place to restore data and operations if an event were to occur that disabled the network. Without a plan, the Commission may not be able to restore core business functions or minimize the disruption of services. This management challenge will require dedicated funding, skilled resources, and time to resolve. The Chief Information Office has also identified this as the most critical risk facing the Commission.

The Commission's regularly collects and uses sensitive proprietary business data, such as intellectual property, while conducting investigations. The sensitive nature of the investigations and the data itself make the Commission's information systems high risk targets for attacks. As the technologies evolve, attempts to breach networks become more sophisticated and harder to defend. This will require the Commission to provide continuous refinement and improvement to the information security program.

The Commission has taken positive steps to address information technology security. Recent actions include, hiring an experienced Chief Information Officer, focusing resources on continuity of operations efforts, and shifting the priorities of information security activities to risk rather than compliance.

In closing, I would like to recognize the commitment the Commission has made to implement corrective actions in order to resolve recommendations over the past year. The cultural challenges that I identified can only be overcome by your continued support and dedication to improving the integrity of the Commission programs and operations. I will continue to work with you, the other Commissioners, and management to reassess our goals and objectives to ensure that my focus remains on the risks and priorities of the Commission.

Philip M. Heneghan
Inspector General

Chairman

UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, DC 20436

COMMENTS ON MANAGEMENT CHALLENGES IDENTIFIED BY THE INSPECTOR GENERAL

In his memorandum dated October 15, 2010, the USITC Inspector General identified three management challenges for FY 2011: (1) Internal Controls, (2) Financial Management, and (3) Information Technology Security. He also assessed the USITC's progress in addressing those challenges, as required by the Reports Consolidation Act of 2000.

The USITC concurs with the Inspector General on the significant challenges management faces and on his assessment of agency progress in addressing those challenges. That assessment recognizes the progress we have made, but also provides useful guidance for a way forward. During FY 2011 USITC management will continue its efforts to address these challenges and finish the tasks we have begun.

Management Challenge: Internal Controls

Implementing and testing effective internal controls over its operations is a top priority to ensure that the Commission can meets its objectives. In response to the FY 2009 financial statement audit, the Commission developed a comprehensive action plan to address the deficiencies in its internal controls and processes. The Commission reviewed its internal controls consistent with the applicable OMB requirements to ensure that the objectives of the Federal Managers' Financial Integrity Act were achieved and documented. The Commission, however, is aware that implementing these controls will require time to implement, and that it will take considerable time to begin to see the effectiveness of the internal controls and processes. The Commission also understands that it will have to test the new system to ensure that the system is adequate and modify it as needed. The Commission also has begun to document consistent processes and procedures agency-wide.

Management Challenge: Financial Management

The Commission is assessing existing staffing agency-wide to identify the skills and personnel resources needed to implement new internal control and financial management procedures. In order to address the deficiencies identified, the Commission intends to establish a new financial management structure, hire or train staff with requisite high-level analytical and communication skills, and ensure transparency and accountability in the formulation, execution, performance, and management of agency budgetary resources.

Management Challenge: Information Technology Security

Maintaining the security of the Commission's IT infrastructure is a top priority as information technology is integral to the Commission's operations. In order to address the deficiencies identified, the Commission recently hired a Chief Information Officer (CIO) with federal government IT experience. The Commission has focused resources toward continuity of operation efforts and the CIO has focused his priorities on risk assessment of the Commission's information security operations.

Deanna Tanner Okun
November 15, 2010

Summary of Financial Statement Audit and Management Assurances

Table 1. Summary of Financial Statement Audit (as of September 30, 2010)

Audit Opinion: Qualified					
Restatement: Yes					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Ending Balance**
Inadequate Internal Controls over Financial Reporting[1]	✓				✓
Insufficient Monitoring, Analysis and Oversight of Financial Operations	✓				✓
Identifying, Recording and Reporting PP&E	✓		✓		
Inadequate Controls over Accounts Payable, Expenditures, and Obligations	✓				✓
Insufficient Resources and Personnel with Appropriate Skill Sets		✓			✓
Total Material Weaknesses	4	1	1	0	4

[1] The September 30, 2009 Independent Auditor's Report on Internal Control reported a consolidated material weakness for Inadequate Internal Controls over Financial Reporting, Analyses and Oversight. For fiscal year 2010, this material weakness has been segregated into two separate material weaknesses for tracking and reporting purposes, namely (1) Inadequate Internal Controls over Financial Reporting and (2) Insufficient Monitoring, Analysis and Oversight of Financial Operations.

Table 2. Summary of Management Assurances (as of September 30, 2010)

Effectiveness of Internal Control over Operations (FMFIA Section 2)					
Statement of Assurance: Qualified					
Material Weaknesses	**Beginning Balance**	**New**	**Resolved**	**Consolidated**	**Ending Balance**
Inadequate Internal Controls over Financial Reporting[1]	✓				✓
Insufficient Monitoring, Analysis and Oversight of Financial Operations	✓				✓
Identifying, Recording and Reporting PP&E	✓		✓		✓
Inadequate Controls over Accounts Payable, Expenditures, and Obligations	✓				✓
Insufficient Resources and Personnel with Appropriate Skill Sets		✓			
Total Material Weaknesses	4	1	1	0	4
Compliance with Federal Financial Management Improvement Act (FFMIA)[2]					
	Agency		**Auditor**		
Overall Substantial Compliance	Yes		Yes		
1. System requirements	Yes		Yes		
2. Accounting Standards	Yes		Yes		
3. USSGL at Transaction Level	Yes		Yes		

[1] The September 30, 2009 Independent Auditor's Report on Internal Control reported a consolidated material weakness for Inadequate Internal Controls over Financial Reporting, Analyses and Oversight. For fiscal year 2010, this material weakness has been segregated into two separate material weaknesses for tracking and reporting purposes, namely (1) Inadequate Internal Controls over Financial Reporting and (2) Insufficient Monitoring, Analysis and Oversight of Financial Operations.

[2] The Commission uses the Department of Interior's financial management system and that system is FFMIA compliant. Thus, the Commission's financial management system complied with the requirements of FFMIA and produced records in accordance with USSGL at the transaction level.

Improper Payments Information Reporting Details

The IPERA of 2010, enacted on July 22, 2010, requires the development of policies and procedures for the prevention and detection of improper payments in the federal government. The Act defines an improper payment to mean any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. In addition, an improper payment includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. The Act also defines a payment for an ineligible good or service to mean making a payment for any good or service that is rejected under any provision of any contract, grant, lease, cooperative agreement, or any other funding mechanism.

Risk assessment

The Improper Payments Elimination and Recovery Act of 2010 expands on IPIA of 2002, which requires an initial assessment to identify those programs that are susceptible to significant risk of improper payments. Significant, as defined in the Act means that in the preceding fiscal year, improper payments in the program or activity may have exceeded $10,000,000 of all program or activity payments made during that fiscal year reported and 1.5 percent of program outlays or $100,000,000.

The USITC has only one program for budget purposes, which totaled approximately $83.5 million in FY 2010. Sixty-five percent of that program consists of payment for salaries and benefits to federal employees. The FY 2010 Statement on Auditing Standards (SAS) 70 examination and testing of the controls applicable to the processing of personnel transactions by the Oracle Federal Financials (OFF) application indicated that processes and controls in place as of June 30, 2010 were operating effectively to safeguard data from waste, fraud, abuse and destruction. Also, controls associated with the Federal Personnel Payroll System (FPPS) prevent the likelihood of over payments at the transaction level. As a result, salaries and benefits are not susceptible to significant risk of material improper payment. In addition, none of the USITC's other major cost centers are funded at more than $10 million. Thus, it is unlikely that the USITC has any programs that are susceptible to significant risks of material improper payments as defined in the Act.

Nonetheless, it is USITC's policy to classify both over and under payments as improper payments, regardless of the amount. It is also USITC's policy to use the absolute value of over and under payments to determine reportable improper payments. It is USITC's policy to track and report on *controllable improper payments*. Controllable improper payments include payments specifically approved in advance by USITC. In addition, the USITC will report on the status of recovered and unrecovered improper payments. However, IPAC withdrawals from the Treasury account by other government agencies are *uncontrollable payments*. These are considered transfers of funds rather than improper payments because there is no cost to the Treasury. As a result, IPAC transfers are not tracked and reported for improper payment purposes.

Recovery auditing

The Improper Payments Elimination and Recovery Act of 2010 replaced the recovery auditing program contained in the National Defense Authorization Act of 2002. The 2010 Act requires agencies to conduct recovery audits with respect to each program and activity of the agency that expends $1,000,000 or more annually, if conducting such audits would be cost-effective.

Once USITC has identified an improper payment, it is USITC's policy to aggressively correct the improper payment. The table below provides summary information on recovery auditing data for two components of the USITC's program.

USITC Budget Category[1]	Amount Subject to Review for FY 2010 Reporting	Actual Amount Reviewed and Reported FY 2010	Amounts Identified for Recovery FY 2010	Amounts Recovered FY 2010	Amounts Identified for Recovery Prior Years	Amounts Recovered Prior Years	Cumulative Amounts Identified for Recovery FY 2010 and Prior Years	Cumulative Amounts Recovered FY 2010 and Prior Years
Personnel	$0	$0	$0	$1,405	$46,881	$7,348	$46,881	$8,753
Non-Personnel	$0	$79,466	$79,466	$0	$0	$0	$79,466	$0

[1] The USITC has one program for budget purposes, which is comprised of Salaries and Benefits (Personnel), and Services and Other (Non-Personnel).

Personnel improper payments

Personnel improper payments are comprised of overpayments made to two USITC employees for $8,612 and $38,269 respectively. The USITC initiated debt collection actions in FY 2009 through payroll deductions, and the $8,612 was fully collected in FY 2010. The USITC is responding to an employee's request for waiver of the $38,269 payment. The personnel improper payment was made by the Department of Commerce for unused annual leave received by an employee upon his departure from federal service. The employee returned to federal service (with the Commission) prior to the expiration of the lump sum leave period. The Commission is currently responding to the employee's request for a waiver of the approximately $10,000 difference between the improper payment of $38,269 and the amount that was due to the employee of approximately $28,000.

Non-personnel improper payments

Non-personnel improper payments are comprised of improper payments made to three USITC vendors for $4,324, $9,522 and $65,620 respectively. The improper payments for $4,324 and $9,522 were made to the wrong vendors due to entry errors into the financial accounting system. The $65,620 improper payment was caused by a vendor billing the USITC directly for leasehold improvements, instead of indirectly billing the USITC through GSA.

Accountability for reducing and recovering improper payments

The Director of Administration, in consultation with the Chairman, the Inspector General and the Director of Finance, is the designated official responsible for establishing policies and procedures to assess USITC program risks of improper payments. The Director of Finance is responsible for taking actions to reduce improper payments and reporting results of the actions taken to reduce and recover improper payments. In addition, USITC reviews, in coordination with the Inspector General, internal policies and procedures on an annual basis to ensure that cost-beneficial control procedures are in place to prevent and detect improper payments.

In FY 2010, the USITC implemented a cost effective recovery auditing program to recover improper payments as mandated by the Act. Specifically, on a quarterly basis, USITC reviews the accounts receivable subsidiary ledgers, randomly selects transactions from the cash disbursements subsidiary ledger, and reviews personnel payroll transactions to identify improper payments. When an underpayment is identified, the Office of Finance promptly pays the additional amount upon identification of, and receipt of appropriate documentation for, the correct amount. When overpayments are identified, the Office of Finance promptly sets up a receivable and notifies the party of the amount(s) to be recovered. For ongoing contracts, the Office of Finance offsets the amount to be recovered on the next billing. In the event that a party does not refund an overpayment within three months of receiving notification of the improper payment, the Office of Finance notifies the Office of the General Counsel of the disputed amount and requests remedial action.

Appendices

Glossary of Acronyms and Abbreviations

AD	Antidumping
AICPA	American Institute of Certified Public Accountants
ALJs	Administrative Law Judges
APA	Administrative Procedure Act
ATDA	Accountability of Tax Dollars Act
BFC	Budget Functional Classification
CD	Compact Disks
CL	Congressional Liaison
Clinger-Cohen Act	Information Technology Management Reform Act
Commission	United States International Trade Commission
COOP	Continuity of Operations
CSRS	Civil Service Retirement Act
Customs	U.S. Customs and Border Protection
CVD	Countervailing Duty
DataWeb	Trade DataWeb
DOL	Department of Labor
EC	Office of Economics
EDIS	Electronic Document Information System
ER	Office of External Relations
FAR	Federal Acquisition Regulation
FASAB	Federal Accounting Standards Advisory Board
FDI	Foreign Direct Investment
FECA	Federal Employees' Compensation Act
FERS	Federal Employees Retirement System
FFMIA	Federal Financial Management Improvement Act
FICA	Federal Insurance Contribution Act
FISMA	Federal Information Security Management Act
FMFIA	Federal Managers' Financial Integrity Act
Foresee	Foresee Government Satisfaction Index
FPPS	Federal Personnel Payroll System
FTA	Free Trade Agreement
FY	Fiscal Year
GAAP	Generally Accepted Accounting Principles
GC	General Counsel

GPO	Government Printing Office
GSA	General Services Administration
GSP	Generalized System of Preferences
HS	Harmonized System
HTS	Harmonized Tariff Schedule
HTSA	Harmonized Tariff Schedule of the United States Annotated
I-O	Input-Output
ID	Initial Determination
IG	Inspector General
IND	Office of Industries
INV	Office of Investigations
IPAC	Interagency Payment and Collection
IPERA	Improper Payments Elimination and Recovery Act
IPIA	Improper Payments Information Act
IPR	Intellectual Property Rights
IRM	Information Resource Management
IT	Information Technology
ITDS	International Trade Data System
ITS	Office of Information Technology Services
IUS	Internal Use Software
JICE	Journal of International Commerce and Economics
MD&A	Management's Discussion and Analysis
MTBs	Miscellaneous Tariff Bills
NAFTA	North American Free Trade Agreement
NAICS	North American Industry Classification System
NIST	National Institute of Standards and Technology
NTMs	Nontariff Measures
OAD	Office of Administration
OARS	Office of Analysis and Research Services
OCIO	Office of the Chief Information Officer
OEEO	Office of Equal Employment Opportunity
OFF	Oracle Federal Financials
OIG	Office of Inspector General
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
PP&E	Property, Plant, and Equipment
Results Act	Government Performance and Results Act
SAS	Statement on Auditing Standards
SFC	Senate Committee on Finance
SFFAS	Statement of Federal Financial Accounting Standards
SIC	Standard Industrial Classification
SMEs	Small- and Medium-Sized Enterprises
TACs	Technical Assistance Coordinators
TATA	Office of Tariff Affairs and Trade Agreements
TEO	Temporary Exclusion Order
Treasury	U.S. Department of Treasury
UNCTAD	United Nations Conference on Trade and Development
URAA	Uruguay Round Agreements Act
USAGE	U.S. Applied General Equilibrium
USITC	United States International Trade Commission
USSGL	United States Standard General Ledger
USTR	United States Trade Representative
W&M	House Committee on Ways and Means
WCO	World Customs Organization
WTO	World Trade Organization

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United States International Trade Commission	500 E Street, SW Washington, DC 20436
General Information Number	202-205-2000
Internet Home Page	http://www.usitc.gov/
Strategic Plan Internet Site	http://www.usitc.gov/press_room/documents/strategic_plan_2009-2014.pdf

Performance and Accountability Report (PAR)

PAR Internet Site	http://www.usitc.gov/press_room/documents/PAR2010.pdf
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