



# **TRADE POLICY DEVELOPMENTS PAPER NO. 21**

## **REPORT ON THE U.S. (for the period January – March 2012)**

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## EXECUTIVE SUMMARY

The current review quarter witnessed key trade policy developments in the United States. Several disputes at the WTO involving regulatory issues within the domestic policies of the US were brought to the forum. The review quarter also witnessed several trade remedies actions taken by the US. The key highlights of the report include:

- Inclusion of South Sudan in the GSP scheme as a new beneficiary as well as suspension of Argentina from the GSP was a key development.
- The institutional development in the US, involved formation of Interagency Trade Enforcement Center (ITEC), which aims to strengthen the US trade enforcement policy and bring a more aggressive approach towards handling addressing unfair trade practices.
- The review quarter witnessed the entry into force of long awaited FTAs of the US with Korea, Columbia. The proposed benefits of the FTAs and similar other negotiations and agreements have been dealt in detail.
- During February 2012, China agreed to significantly increase its market access for U.S. movies in order to resolve outstanding issues related to films after the United States' successful challenge against China in the *China-Audiovisual* dispute. This is a crucial trade policy development in the relations between the two countries.
- The review quarter also witnessed progress in the U.S.-Japan Economic Harmonization Initiative (EHI), as a part of US-Japan trade relationship.
- In the WTO Council for Goods (CTG) meeting, US raised several concerns against Argentina pertaining to several trade restrictive measures affecting imports within Argentina.
- At the formal meeting of IPR Council at the WTO during February, 2012, US played a pivotal role where several international policies including ACTA, relationship between CBD and TRIPS etc. were brought at the discussion table.
- The review quarter witnessed the dispute raised by US against India concerning India's prohibition on certain U.S. agricultural exports, including poultry meat and chicken eggs. This remains a crucial development in the Indo-US trade policy, as the outcome of this consultation will have an important bearing on the SPS measures pursued by India.
- During April 2012, USTR announced the results of the 2012 annual review of the operation and effectiveness of telecommunications trade agreements under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988. The report remains important as it highlights the concern that U.S. equipment manufacturers may be disadvantaged by the growing use of local content requirements in countries such as India.

## **AGENDA FOR THE NEXT REPORT**

- The future developments in the GSP scheme with respect to inclusion of other LDCs shall be monitored in the future reports.
- The future developments with respect to the US FTAs with Korea and Columbia shall be monitored closely and analysis should be made whether the proposed benefits from these FTAs are being accrued to the member nations.
- The extension of U.S.-Canada Softwood Lumber Agreement and agreements entered into between US and China with respect to US film exports to China shall be monitored.
- The issues brought before the IPR Council in the WTO remain issues of great concern both for the developing and developed nations. The compatibility of ACTA with TRIPS and crucial concerns between CBD and TRIPS agreement have been brought into question several times at the discussion table. The matter could potentially take the shape of disputes before the WTO if timely settlement does not follow. Such emerging disputes shall be monitored closely.
- The results of the consultation at the WTO raised by the US with respect to import of certain agricultural products by India shall be monitored closely. The grounds for challenge or settlement remain crucial as it would have a great bearing on the domestic policies of India.
- The trade row between the US and China over renewable energy trade policies could soon see additional players join the mix, with recent reports suggesting that India might launch its own anti-dumping probe into Chinese solar imports later.
- At the dispute settlement level, several issues of regulatory changes have been brought before the forum. The appeal in the US-Cool decision; Clove cigarettes decision and US-Tuna dispute have already been made. The outcome of these disputes would have great impact on the future policy decisions of the US.
- The US Congress will be debating the Farm Bill 2012, officially known as the Agriculture Reform, Food and Jobs Act, 2012 in June-July, 2012. The next quarterly report will be focus on the distinctive features of the Farm Bill, 2012.
- The 13<sup>th</sup> Round of TPP negotiations will be taking place during June- July. The next report will provide a summary of the major developments.

## UNITED STATES: TRADE POLICY MONITORING REPORT: VOLUME IV

### PART I- ECONOMIC SITUATION IN THE US DURING THE QUARTER PERIOD

#### 1.1 Gross Domestic Product (GDP)

In the first quarter of 2012, the real gross domestic product, increased at an annual rate of 1.9 percent (that is, from the fourth quarter to the first quarter), according to the 'second' estimate released by the Bureau of Economic Analysis. In the fourth quarter of 2011, real GDP increased 3.0 percent.

The increase in real GDP in the first quarter primarily reflected positive contributions from personal consumption expenditures (PCE), exports, residential fixed investment, private inventory investment, and nonresidential fixed investment that were partly offset by negative contributions from federal government spending and state and local government spending. Imports, which are a subtraction in the calculation of GDP, increased.

Real personal consumption expenditures increased 2.7 percent in the first quarter, compared with an increase of 2.1 percent in the fourth. Durable goods increased 14.3 percent, compared with an increase of 16.1 percent. Nondurable goods increased 2.3 percent, compared with an increase of 0.8 percent. Services increased 1.0 percent, compared with an increase of 0.4 percent. Real nonresidential fixed investment increased 1.9 percent in the first quarter, compared with an increase of 5.2 percent in the fourth. Nonresidential structures decreased 3.3 percent, compared with a decrease of 0.9 percent. Equipment and software increased 3.9 percent, compared with an increase of 7.5 percent. Real residential fixed investment increased 19.4 percent, compared with an increase of 11.6 percent.<sup>1</sup>

#### 1.2 Employment status

During March 2012, U.S. Department of Commerce reports indicated that jobs supported by U.S. exports increased by 1.2 million between 2009 and 2011.<sup>2</sup>

#### 1.3 US Trade Condition

##### Volume of Trade

During January 2012, the United States exported \$180.8 billion in goods and services. This indicates an increase of more than \$1 billion over December 2011, according to data released by the Bureau of Economic Analysis (BEA) of the U.S. Commerce Department. Real exports of goods and services increased 7.2 percent

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<sup>1</sup> National Income and Product Accounts, Gross Domestic Product, 1st quarter 2012 (second estimate); Corporate Profits, 1st quarter 2012 (preliminary estimate), Bureau of Economic Analysis, May 31, 2012 at: [http://www.bea.gov/newsreleases/national/gdp/2012/gdp1q12\\_2nd.htm](http://www.bea.gov/newsreleases/national/gdp/2012/gdp1q12_2nd.htm)

<sup>2</sup> USTR Kirk Welcomes Rise in Export-Supported Jobs Here at Home, March 12, 2012 at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/ustr-kirk-welcomes-rise-export-supported-jobs-here-h>

in the first quarter, compared with an increase of 2.7 percent in the fourth. Real imports of goods and services increased 6.1 percent, compared with an increase of 3.7 percent.

The data also revealed that the exports of goods and services over the last twelve months (January-December, 2011) totaled \$2.118 trillion, which is more than 34 percent above the level of exports in 2009. Over the last twelve months, exports grew at an annualized rate of 15.3 percent when compared to 2009. This pace indicates a greater increase than the 15 percent required to double exports by the end of 2014.

Over the last twelve months, the major export markets with the largest annualized increase in U.S. goods purchases were Turkey (40.7 percent), Panama (37.9 percent), Argentina (34.0 percent), Honduras (32.9 percent), Chile (30.2 percent), Hong Kong (30.2 percent), Peru (29.0 percent), South Africa (27.6 percent), Brazil (26.7 percent), and Guatemala (25.6 percent).

In the first quarter of fiscal year of 2012, Ex-Im Bank approved \$4.26 billion in authorizations, supporting approximately 37,000 American jobs. Over \$789 million in export financing was authorized for small businesses, and the number of small business customers increased by 10% over the same quarter in 2011.<sup>3</sup>

### Trade in Goods and Services

On May 10, 2012, the U.S. Census Bureau and the U.S. Bureau of Economic Analysis, through the Department of Commerce, announced that total March exports of \$186.8 billion and imports of \$238.6 billion resulted in a goods and services deficit of \$51.8 billion, up from \$45.4 billion in February, revised. March exports were \$5.3 billion more than February exports of \$181.5 billion. March imports were \$11.7 billion more than February imports of \$226.9 billion.

In March, the goods deficit increased \$6.5 billion from February to \$67.6 billion, and the services surplus increased \$0.1 billion from February to \$15.8 billion. Exports of goods increased \$4.7 billion to \$132.7 billion, and imports of goods increased \$11.3 billion to \$200.3 billion. Exports of services increased \$0.5 billion to \$54.1 billion, and imports of services increased \$0.4 billion to \$38.3 billion.

The goods and services deficit increased \$5.8 billion from March 2011 to March 2012. Exports were up \$12.8 billion, or 7.3 percent, and imports were up \$18.5 billion, or 8.4 percent.

### Goods

The February to March increase in exports of goods reflected increases in industrial supplies and materials (\$2.4 billion); capital goods (\$1.2 billion); foods, feeds, and beverages (\$0.5 billion); other goods (\$0.4 billion); automotive vehicles, parts, and engines (\$0.4 billion); and consumer goods (\$0.1 billion).

The February to March increase in imports of goods reflected increases in capital goods (\$3.5 billion); consumer goods (\$3.3 billion); industrial supplies and materials (\$2.5 billion); automotive vehicles, parts, and engines (\$1.2 billion); other goods (\$0.5 billion); and foods, feeds, and beverages (\$0.2 billion).

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<sup>3</sup> U.S. Exports Hit More Than \$180 Billion in January, EXIM Press release, March 9, 2012 at: <http://www.exim.gov/pressrelease.cfm/BC386B01-A099-0B99-615A21B91FDBD6DE/>

The March 2011 to March 2012 increase in exports of goods reflected increases in capital goods (\$4.6 billion); industrial supplies and materials (\$3.1 billion); automotive vehicles, parts, and engines (\$1.0 billion); other goods (\$0.4 billion); and consumer goods (\$0.4 billion). A decrease occurred in foods, feeds, and beverages (\$0.8 billion).

The March 2011 to March 2012 increase in imports of goods reflected increases in capital goods (\$6.6 billion); automotive vehicles, parts, and engines (\$3.5 billion); consumer goods (\$2.0 billion); industrial supplies and materials (\$1.4 billion); other goods (\$0.9 billion); and foods, feeds, and beverages (\$0.6 billion).

### Services

Exports of services increased \$0.5 billion from February to March. The increase was mostly accounted for by increases in other private services (which includes items such as business, professional, and technical services, insurance services, and financial services), royalties and license fees, and other transportation (which includes freight and port services). Changes in the other categories of services exports were small.

Imports of services increased \$0.4 billion from February to March. The increase was mostly accounted for by increases in other transportation, other private services, and travel. Changes in the other categories of services imports were small.

The March 2011 to March 2012 increase in exports of services was \$4.6 billion. The largest increases were in royalties and license fees (\$1.8 billion), travel (\$1.1 billion), and other private services (\$1.0 billion). Within other private services, the largest increases were in financial services and in business, professional, and technical services.

The March 2011 to March 2012 increase in imports of services was \$3.5 billion. The largest increases were in other private services (\$2.1 billion) and travel (\$0.7 billion). Within other private services, the largest increases were in business, professional, and technical services and in insurance services.<sup>4</sup>

## **1.4 United States Trade Policy Agenda 2012**

USTR is the lead agency responsible for the development of the President's Trade Policy Agenda, which by statute must be delivered to Congress by March 1 of each year.<sup>5</sup>

The Agenda for 2012 outlines the Obama Administration's key trade goals for 2012, including: entry into force and implementation of trade agreements with Korea, Colombia, and Panama; conclusion of negotiations for a high-standard Trans-Pacific Partnership (TPP) regional trade agreement; enhanced trade enforcement efforts to investigate unfair trading practices in countries like China and hold our trading partners accountable for their commitments to comply with World Trade Organization (WTO) obligations;

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<sup>4</sup> U.S. International Trade In Goods And Services, March 2012, US Bureau of Economic Affairs, May 10, 2012 at: <http://www.bea.gov/newsreleases/international/trade/2012/trad0312.htm>

<sup>5</sup> President's 2012 Trade Policy Agenda Sets Ambitious Course to Support American Jobs, March 2012, at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/president%E2%80%99s-2012-trade-policy-agenda-sets-ambitious>

extension of permanent normal trade relations to Russia so that American producers can compete on a level playing field as Russia joins the WTO rules-based global trading system; and continued American leadership at the WTO and in other forums toward greater international trade liberalization.

### **1.5 Institutional developments in trade enforcement regime**

During February, 2012, President Obama signed an Executive Order officially launching the Interagency Trade Enforcement Center (ITEC). The ITEC would build upon the strong track record of US trade enforcement policy and continue to level the playing field for American workers and businesses by bringing a more aggressive ‘whole-of-government’ approach to addressing unfair trade practices. The government believes that by increasing the resources devoted exclusively to trade enforcement, as well as leveraging existing resources more efficiently across the administration, ITEC will significantly enhance nation’s capabilities to challenge unfair trade practices around the world. A more level playing field would enable American exporters to create more jobs in the United States and hire more workers at home. <sup>6</sup>

### **1.6 Developments in Generalized Systems of Preferences (GSP)**

The current review quarter witnessed some vital developments in the GSP policy of the US. During March 2012, Republic of South Sudan was designated as a new beneficiary of the Generalized System of Preferences (GSP) program and Argentina’s GSP eligibility got suspended.

The designation of South Sudan as a GSP beneficiary country follows a request by the Government of South Sudan for such designation and a subsequent interagency U.S. Government review of South Sudan’s GSP eligibility, based on the criteria set forth in the GSP statute. The President also designated South Sudan as a least developed beneficiary developing country, which means that once the presidential action takes full effect, nearly 4,900 products from South Sudan will be eligible for duty-free treatment upon entry into the United States. GSP eligibility is a prerequisite for consideration of a country’s eligibility for trade benefits under AGOA. The African Growth and Opportunity Act (AGOA) was established in 2000 to provide eligible sub-Saharan African countries with duty-free access for a broader variety of products than is available under GSP, including apparel, footwear, and some agricultural and processed food products. AGOA’s third-country fabric provision allows most sub-Saharan African AGOA beneficiaries to use fabric from any source in the production of qualifying duty-free apparel subject to duty-free treatment when imported into the United States. This provision is scheduled to expire on September 30, 2012.

According to Ambassador Kirk, “The suspension of Argentina’s GSP eligibility is based on a finding that the country is not in compliance with the statutory GSP eligibility criteria set by Congress,” “Specifically, the Argentine government has failed to pay two longstanding arbitral awards in favor of U.S. companies. We urge the Government of Argentina to pay the subject awards. This would allow us to consider reinstating Argentina’s GSP eligibility and promote the growth of a mutually beneficial U.S.-Argentina trade and investment relationship.”

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<sup>6</sup> Launch of the Interagency Trade Enforcement Center (ITEC), Feb 2012, at: <http://www.ustr.gov/about-us/press-office/blog/2012/february/launch-interagency-trade-enforcement-center-itec>

The GSP action on Argentina, which becomes effective 60 days after the publication of the presidential proclamation in the Federal Register, follows an interagency U.S. Government review of two separate petitions submitted by U.S. companies. The petitions sought the removal of Argentina from GSP eligibility based on the Government of Argentina's failure, in contravention of the GSP statutory eligibility criteria, to act in good faith in recognizing as binding and enforcing arbitral awards in favor of U.S. companies rendered under the United States-Argentina bilateral investment treaty and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention). The subject awards, totaling about \$300 million plus interest, were rendered by ICSID arbitral tribunals in 2005 and 2006 and were subsequently upheld against challenge by Argentina in ICSID annulment proceedings. The Government of Argentina has not paid the awards, despite repeated requests to do so by the two petitioners and the United States Government. In 2011, U.S. imports from Argentina benefiting from GSP treatment totaled \$477 million (about 11 percent of total imports from Argentina), making Argentina the ninth-ranking source of imports under the GSP program last year.<sup>7</sup>

## **PART II TRADE AND INVESTMENT POLICY FRAMEWORK**

### **2.1 Trade Agreements**

**US-Korea-** On March 15, 2012, the US-Korea trade agreement entered into force. This agreement is claimed to be United States' most commercially significant free trade agreement in almost 20 years.

**Background-** In December 2010, President Obama announced the successful resolution of outstanding issues with the U.S.-Korea trade agreement, setting the stage for Congressional approval of the agreement which is estimated to support 70,000 American jobs from increased goods exports, with additional jobs potential from the further opening of Korea's large services market to American firms and the elimination of non-tariff measures. Congress approved the pact in October 2011, with the largest-ever recorded vote of support in the U.S. Senate for a pending trade agreement. (For a detailed background, refer to previous review quarter reports).

The entry into force is speculated to provide significant benefits to U. S. suppliers of a variety of industrial and agricultural goods and services. The key benefits from the agreement would include:

Improved Market Access to Korea's \$1 Trillion Economy- The agreement is an integral part of the President's efforts to increase opportunities for U.S. businesses, farmers, ranchers, and workers through improved access for their products and services in foreign markets, and supports the President's National Export Initiative goal of doubling of U.S. exports in 5 years. It promotes the further growth of the U.S. and Korean economies and enhances the competitiveness of U.S. businesses in the world's 12th largest economy.

New Opportunities for U.S. Exports of Industrial Products- Almost 80 percent of U.S. exports of industrial products to Korea are now duty-free, including: aerospace equipment, agricultural equipment, auto parts,

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<sup>7</sup> U.S. Trade Representative Ron Kirk Comments on Presidential Actions Related to the Generalized System of Preferences , March 2012, Press release at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/us-trade-representative-ron-kirk-comments-presidenti>

building products, chemicals, consumer goods, electrical equipment, environmental goods, all footwear and travel goods, paper products, scientific equipment and shipping and transportation equipment. Remaining tariffs have also been reduced and will be eliminated over time.

New Opportunities for U.S. Exports of Agricultural Products- Nearly two-thirds of U.S. exports of agricultural products to Korea are now duty-free, including: wheat, corn, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, orange juice, grape juice and wine. Remaining tariffs have also been reduced and will be eliminated over time.

New Opportunities for Services in Korea's \$580 Billion Services Market- The U.S.-Korea agreement provides meaningful market access commitments that extend across virtually all major sectors in Korea's large services market, such as greater and more secure access for international delivery services, telecommunications services, and the opening up of the Korean market for foreign legal consulting services, among many others.

In the area of financial services, it increases access to the Korean market and ensures greater transparency and fair treatment for U.S. suppliers of financial services.

New Commitments to Address Non-Tariff Barriers to U.S. Exports- The agreement addresses non-tariff barriers in a wide range of sectors and includes strong provisions to prevent motor vehicle safety and environmental regulations from acting as disguised barriers to trade, to enhance regulatory transparency, and to increase market access with provisions on standard-setting, technology neutrality, and customs administration.

Greater Protections for Intellectual Property Rights- The agreement strengthens protections for intellectual property rights benefiting American creators and innovators, including protection for copyrighted works in a digital economy, anti-circumvention provisions to prohibit tampering with technologies, and tough penalties for piracy and counterfeiting.

Strong Enforcement Provisions- The agreement's strong enforcement provisions enable the United States to hold Korea to its obligations under the pact. These provisions include expedited dispute settlement procedures for vehicle-related matters and the ability – unprecedented in previous U.S. trade agreements – to “snap back” U.S. tariffs on passenger cars to their pre-agreement levels if Korea violates, nullifies, or impairs its commitments under the agreement in a way that materially affects the sale, purchase, transportation, distribution or use of U.S. vehicles in Korea.<sup>8</sup>

**US-Columbia**- It was reported during the review quarter, that another long awaited US FTA with Columbia would enter into force on May 15, 2012. Like the US-Korea FTA, the FTA with Columbia has also been pending and its entry is speculated to bring several benefits to the US. Upon its entry into force, 80 percent of U.S. exports of industrial and manufactured products to Colombia would become duty free. This would boost U.S. exports, and help to support more and better jobs for American workers. (Refer to previous Review quarter reports for a detailed background).

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<sup>8</sup> Jobs On The Way: U.S.-Korea Trade Agreement Enters Into Force, Press release, March 2012, at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/us-korea-trade-agreement-enters-force-march-15-2012>

Below are some excerpts of comments on the US-Colombia FTA from US leaders, primarily focusing on benefits to agricultural and allied sectors:

*“This is great news for ranchers, farmers and businesses in Montana and across the country. In just thirty days, U.S. exporters and workers will be competing on a level playing field in this crucial market for American goods, and this will boost U.S. exports by a billion dollars and create the jobs we need here at home. We know that when Americans compete on a level playing field, they win. So this agreement entering into force is vital to giving U.S. workers a leg up in the global economy by removing Colombia’s barriers to our manufactured and agricultural goods from Montana and across the country.”* – Max Baucus (D-MT), Senate Finance Committee Chairman

*“This agreement will have a positive economic impact in Miami-Dade County, where international trade already generates billions of dollars for our community,”* – Jose “Pepe” Diaz, Miami-Dade County Commissioner

*“We are extremely pleased to see this FTA set for implementation. Our extensive efforts over the nearly six years since the agreement was first signed have finally become a reality and U.S. wheat exports will now compete on an equal basis with other major exporters.”* – Alvaro de la Fuentes , U.S. Wheat Associates (USW) Regional Vice President for South America

*“Retail Industry Leaders Association] RILA and our members are delighted to see that the benefits of the U.S.-Colombia Trade Promotion Agreement will finally be realized next month. We applaud President Obama and U.S. Trade Representative Ron Kirk for their work to implement this long-anticipated trade promotion agreement. The Colombia FTA will benefit retailers by bringing certainty and stability to the trade relationship between the United States and Colombia”* – Stephanie Lester, Vice President of International Trade, Retail Industry Leaders Association.<sup>9</sup>

**US-China-** During February 2012, China agreed to significantly increase its market access for U.S. movies in order to resolve outstanding issues related to films after the United States’ victory in the World Trade Organization dispute. The agreement announced between the two nations would allow significantly more job-supporting U.S. film exports to China and provide fairer compensation to U.S. film producers for the movies being shown there.

The Chinese film market is large and grows at a quick pace. During 2011, Chinese box office revenue was up to \$2.1 billion and much of this revenue came from 3D titles, which are rapidly growing sector of the film industry. For the US, even on a global basis, films and other audiovisual services are a key export sector in which the United States enjoys a \$12 billion trade surplus. U.S. cross-border exports of audiovisual services.

The agreement would allow more American exports to China of 3D, IMAX, and similar enhanced format movies on favorable commercial terms. This would strengthen the opportunities to distribute films through private enterprises rather than the state film monopoly, and ensure fairer compensation levels for U.S. blockbuster films distributed by Chinese state-owned enterprises. The agreement will be reviewed after 5

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<sup>9</sup> Leaders Applaud Announcement of U.S.-Colombia Trade Promotion Agreement Entry into Force, April 2012 at: <http://www.ustr.gov/about-us/press-office/blog/Leaders%20Applaud%20Announcement%20of%20U.S.-Colombia%20Trade%20Promotion%20Agreement%20Entry>

years to ensure that it is working as envisioned. If necessary, the United States could return to the WTO to seek relief.<sup>10</sup>

Background to the Agreement- The United States initiated the underlying WTO dispute in April 2007. In the dispute, the United States sought to address significant market access concerns relating to China's treatment of films for theatrical release, as well as other cultural products.

With regard to films, the WTO panel found in a report issued in August 2009 that key Chinese film import restrictions were inconsistent with China's WTO obligations. In December 2009, after China appealed, the WTO Appellate Body rejected China's claims and upheld the panel's findings. China promised to come into compliance by March 2011, but informed the United States at the deadline that this would not be possible. The two sides were making efforts to resolve their differences since that time.

**US-Canada-** During January 2012, United States Trade Representative Ron Kirk and Canadian Minister for International Trade signed a two-year extension of the 2006 U.S.-Canada Softwood Lumber Agreement (SLA), so that the Agreement will be in effect through October 12, 2015. The action extends the SLA with no changes. It is stated that the United States is pleased to have agreed with Canada to extend the SLA well before its initial expiration date, to ensure predictability and stability in the sector. The U.S. intends to consult with Canada before the extended expiration date on whether a further extension is in the interest of both countries.

Background- The SLA entered into force on October 12, 2006 and was set to expire on October 12, 2013. Article XVIII of the agreement contemplated extension stating: "*the SLA 2006 shall remain in force for 7 years after the Effective Date and may be extended by agreement of the Parties for an additional 2 years.*" As part of the SLA, the United States agreed to cease imposing antidumping and countervailing duties upon softwood lumber from Canada. In exchange, Canada agreed, among other things, to apply export measures – export charges and volume limitations – to shipments of softwood lumber from Canada to the United States when the price of softwood products falls below a certain level.

The SLA provides for arbitration to resolve disputes between the United States and Canada regarding the interpretation and implementation of the Agreement. Under the SLA, arbitration is conducted under the rules of the LCIA (formerly the London Court of International Arbitration), and there is no appeal from the decision of the tribunal. The United States has brought three disputes under the SLA to ensure its proper implementation. In the first dispute, a tribunal found that Canada failed to calculate quotas properly for exports from certain areas of Canada during the first six months of 2007, and found that Canada must impose an additional CN\$68.26M in export duties on softwood lumber as compensation. Canada notified that the full amount was collected and ceased applying the additional duties in July 2011. In the second dispute, a tribunal found that certain provincial programs in Quebec and Ontario provided a benefit to Canadian softwood producers in breach of the SLA, and found that Canada must impose an additional US\$59.4 million in export duties on softwood lumber from Quebec and Ontario as compensation, which

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<sup>10</sup> United States Achieves Breakthrough on Movies in Dispute with China, Feb 2012 at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/february/united-states-achieves-breakthrough-movies-disput>

Canada began imposing on March 1, 2011. The third dispute, which is ongoing, concerns the apparent underpricing of valuable public timber in the Interior region of British Columbia.<sup>11</sup>

## 2.2 Trade Meetings and Negotiations

**US-Japan-** During January 2012, certain progress was made with respect to the U.S.-Japan Economic Harmonization Initiative (EHI), which expands job-supporting business and export opportunities for American entrepreneurs, workers, manufacturers, and service providers in Japan. Through engagement under the EHI, Japan improved the business environment and expanded access for a broad range of U.S. goods and services. These areas include intellectual property protection, automobiles, information and communication technology services and products, medical devices, pharmaceuticals, agricultural products, and distribution services.

The United States and Japan also jointly pursued new areas of cooperation in the EHI across a wide range of topics of mutual interest. The United States and Japan agreed on a set of non-binding trade principles for information and communication technology services and will promote wide adoption of these principles by other countries to support the global development of ICT services. These include Internet and other network-based applications that are critical to innovative e-commerce, Internet search and advertising, cloud computing, and other services. The principles cover a range of topics including regulatory transparency, open access to networks and applications, free flow of information across borders, as well as non-discriminatory treatment of digital products, foreign investment in ICT services, and efficiency in spectrum allocation.

The key highlights of the progress since the talks began in February 2011, include:

Enhancing Access for Advanced Automobiles: Japan improved transparency and predictability for the import of automobiles that incorporate new, advanced technologies and features not covered by existing regulation.

Introducing Spectrum Auctions: Japan will introduce a system within three years enabling commercial spectrum to be assigned by auction. Spectrum auctions will increase competitive opportunities for new entrants and new wireless technologies by improving objectivity, transparency, and accountability in the spectrum assignment process.

Enabling New Market Entry for Internet-enabled Video: Japan affirmed that American companies do not face foreign equity restrictions specific to offering Internet-enabled (“over-the-top”) video services, helping ensure they are able to offer innovative new services in the Japanese market.

Strengthening Intellectual Property Protection: Japan introduced new legal protections that enhance the ability of intellectual property right holders to defend their products and services from unauthorized use through technological measures, such as copy and access controls.

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<sup>11</sup> United States And Canada Sign A Two-Year Extension Of The 2006 U.S.-Canada Softwood Lumber Agreement, January 2012, at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/january/united-states-and-canada-sign-two-year-extension-2>

Reducing the Drug and Medical Device Lag: Japan made important progress to improve access for Japanese patients to life-saving and other advanced U.S. pharmaceuticals and medical devices by shortening the lag by several months between the time regulatory approval is sought and a final decision is made for a range of products.

Strengthening Vaccine Cooperation: Japan expanded access for citizens to three life-saving vaccines, and strengthened cooperation with the U.S. Government to bolster its vaccination programs.

Improving Access for Cosmetics and Medicated Cosmetics: Japan revised rules to enable new efficacy claims in advertising and labeling for cosmetics, as well as further streamlined the import process for cosmetics and medicated cosmetics.

Streamlining Merger Reviews: Japan revised rules to increase the speed, transparency, and predictability of anti-monopoly merger reviews, bringing Japan's process into closer alignment with global best practices.

The United States will also continue to work with Japan on a range of topics discussed under EHI to resolve outstanding issues, including concerns about competitive advantages given to Japan Post vis-à-vis private suppliers of banking, insurance, and international express delivery services.

Background- The EHI, launched in November 2010, aims to contribute to our countries' economic growth by promoting cooperation to harmonize approaches that facilitate trade, address business climate and individual issues, and advance coordination on regional issues of common interest. The EHI process is led by the Office of the U.S. Trade Representative and Japan's Ministry of Foreign Affairs, and includes the participation of multiple agencies in both Governments.

Work under the EHI began in February 2011 with an exchange of issues of interest to both Governments, and a first round of working group meetings was held on these issues in Tokyo, Japan during late February – early March 2011. Subsequent working group meetings were held in Washington, D.C. in July 2011. In addition, a High-Level Officials meeting between Deputy U.S. Trade Representative Demetrios Marantis and Japan Deputy Foreign Minister Shinichi Nishimiya took place in October 2011.<sup>12</sup>

US-EU- The United States and the European Union announced during February 2012, that beginning June 1, 2012, organic products certified in the United States or in Europe may be sold as organic in either region. This partnership between the two largest organic producers in the world aims at establishing a strong foundation from which to promote organic agriculture, benefiting the growing organic industry and supporting jobs and businesses on a global scale.

Formal letters creating this partnership were signed on February 15, 2012 in Nuremberg, Germany. The signing took place at the BioFach World Organic Fair, the largest trade show for organic products in the world.

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<sup>12</sup> U.S. Trade Representative Ron Kirk Announces Progress through U.S.-Japan Economic Harmonization Initiative, Expanding Trade and Market Opportunities for American Producers, January 2012 at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/january/us-trade-representative-ron-kirk-announces-progres>

*“Although there are small differences between the U.S. and European Union organic standards, both parties individually determined that their programs were equivalent except for the prohibition on the use of antibiotics. The USDA organic regulations prohibit the use of antibiotics except to control invasive bacterial infections (fire blight) in organic apple and pear orchards. The European Union organic regulations allow antibiotics only to treat infected animals. For all products traded under this partnership, certifying agents must verify that antibiotics were not used for any reason.*

*In addition, all products traded under the partnership must be shipped with an organic export certificate. This document will show the production location, identify the organisation that certified the organic product, verify that prohibited substances and methods weren't used, certify that the terms of the partnership were met, and allow traded products to be tracked.*

*Both parties are committed to ensuring that all traded organic products meet the terms of the partnership, retaining their organic integrity from farm to market. The European Commission's Directorate General for Agriculture and Rural Development and the U.S. Department of Agriculture's (USDA) National Organic Program—which oversees all U.S. organic products—will both take on key oversight roles.*

*The United States and the European Union will continue to have regular discussions and will review each other's programs periodically to verify that the terms of the partnership are being met. The EU and U.S. will also begin to work on a series of cooperation initiatives to promote organic production and tackle important topics such as animal welfare and other issues. Both programs will share technical information and best practices on an ongoing basis to further enhance the integrity of organic crops and livestock production systems.”<sup>13</sup>*

**US-Mauritius-** During January, 2012, US and Mauritius began their consultations under U.S.-Mauritius Trade and Investment Framework Agreement (TIFA). During the TIFA meeting, the two governments discussed a broad range of issues of importance to the bilateral U.S.-Mauritian trade and investment relationship, including the African Growth and Opportunity Act (AGOA), the World Trade Organization (WTO) Doha negotiations and trade facilitation, the ongoing U.S.-Mauritius Bilateral Investment Treaty discussions, intellectual property rights, services trade, information communication and technology (ICT) principles, and trade capacity building, among other issues. The United States and Mauritius also hope to step up work on e-education under the TIFA.<sup>14</sup>

**US-Saudi Arabia-** The second meeting of the U.S.-Saudi Arabia Trade and Investment Council was conducted on January 15, 2012. During the Council in Riyadh, officials from the United States and Saudi Arabia pursued various mechanisms for expanding their trade and investment relationship, such as actions to

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<sup>13</sup> United States and European Union Agree to Historic New Partnership on Organic Trade, Feb 2012 at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/february/united-states-and-european-union-agree-historic-n>

<sup>14</sup> Ambassador Marantis Leads Consultations Under the U.S.-Mauritius Trade and Investment Framework Agreement, Jan 2012 at: <http://www.ustr.gov/about-us/press-office/blog/2012/january/ambassador-marantis-leads-consultations-under-us-mauritius-t>

increase the protection and enforcement of intellectual property rights, open opportunities for government procurement, and improve stakeholder engagement in the development of standards and regulations.<sup>15</sup>

Background- Total two-way trade (exports plus imports) between the United States and Saudi Arabia totaled \$43 billion in 2010, representing the U.S.'s 15th largest goods trading relationship. U.S. goods exports to Saudi Arabia in 2010 were \$11.6 billion, up 7.1% from 2009. U.S. goods imports from Saudi Arabia totaled \$31.4 billion in 2010, a 42.4% increase from 2009. Leading U.S. exports to Saudi Arabia include vehicles, machinery, aircraft, electrical machinery, and optic and medical instruments. Saudi Arabia predominantly exports oil, organic chemicals, fertilizers, and platinum scrap to the United States. U.S. foreign direct investment (FDI) in Saudi Arabia was \$8 billion in 2010, concentrated mostly in the nonbank holding companies sector.

**US-Israel**- The Joint Committee meeting of the United States-Israel Free Trade Agreement held during February 16, 2012, allowed the United States to explore collaborative efforts to increase bilateral trade and investment with Israel. During the meeting, the two sides noted progress made in pursuing the objectives of their August 2011 work plan agreed to by Deputy United States Trade Representative Miriam Sapiro and Director General Sharon Kedmi last summer, and agreed on further initiatives during 2012. Notably, they addressed a number of specific standards-related impediments to trade and committed to a 2012 standards dialogue to address specific and broader standards issues. They also agreed to establish an ad hoc working group to facilitate claims of duty-free status for goods that qualify under the FTA and explored options for liberalizing trade in services. Additionally, progress was made during the meeting towards a new agreement on trade in agricultural products and towards resolving outstanding sanitary and phyto-sanitary issues.<sup>16</sup>

**US-Brunei** - During February 2012, US Ambassador held a broad discussion of the U.S.-Brunei trade and investment relationship with Prince Mohamed, Brunei's Minister of Foreign Affairs and Trade. Ambassador Marantis highlighted the importance of joint efforts to conclude the high-standard TPP, per the goal set by President Obama, the Sultan, and the seven other TPP leaders at the APEC meetings in Honolulu last November. He also looked forward to further positive cooperation with Brunei on bilateral, ASEAN, and APEC issues.

US Ambassador also engaged in comprehensive discussions on the full range of issues being considered as part of the TPP. He underscored the importance of ambitious outcomes in key areas such as labor, environment, and intellectual property rights. He called attention to the need for improved market access offers, including in important sectors of services and investment.<sup>17</sup>

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<sup>15</sup> United States and Saudi Arabia Work to Strengthen Ties, Expand Trade and Investment Relationship, January 2012 at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/january/united-states-and-saudi-arabia-work-strengthen-tie>

<sup>16</sup> Readout of a Meeting of the Joint Committee of the United States-Israel Free Trade Agreement, USTR

<sup>17</sup> Ambassador Marantis Wraps Up High-Level Trade and Investment Discussions in Brunei Darussalam, Feb 2012 at: <http://www.ustr.gov/about-us/press-office/blog/2012/february/ambassador-marantis-wraps-high-level-trade-and-investment-d>

**TPP and allied negotiations** - On March 8, 2012, U.S. Trade Representative Ron Kirk met with Canadian Trade Minister to discuss Canada's interest in joining the Trans-Pacific Partnership (TPP) negotiations. Ambassador Kirk and Minister Fast discussed each government's engagement with its domestic stakeholders and consultations with other TPP partners on Canada's interest in joining the TPP talks. The United States, along with Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam, are working to craft a high-standard agreement that addresses new and emerging trade issues and 21st-century challenges through the TPP. In November 2011, Canada expressed its interest in joining the TPP negotiations.<sup>18</sup>

Previously during February 2012, United States and Japan concluded two days of consultations related to Japan's interest in the Trans Pacific Partnership (TPP) negotiations. This meeting was a follow-up session to the senior-level consultation with Japan held on February 7, 2012. The meeting was an opportunity for the United States to continue the assessment of Japan's readiness to meet the high TPP standard. Experts from both Governments exchanged information on topics across a range of TPP chapter and issue areas. Japanese officials also provided further information about Japan's existing laws and regulations, as well as on relevant provisions in its existing free trade agreements with other trading partners. Both Governments agreed to continue the consultative process, with additional meetings to be arranged at a later date.<sup>19</sup>

**US-Manila-** During February 2012, US Ambassador conducted a visit to Manila. In his speech, "Charting a Future Course for an Historic Trade Relationship, Marantis expressed optimism about prospects for expanded U.S. trade and investment with the Philippines, a longtime trading partner and strategic ally in Asia. He highlighted current themes of our bilateral trade engagement, noting the recent agreement by the United States and the Philippines on customs cooperation and trade facilitation. He also called attention to the importance of President Aquino's efforts to fight corruption and create the right conditions for sustained broad-based economic growth, which the United States is supporting through the Partnership for Growth program of development assistance. He stressed the importance of improvements in the intellectual property environment and pressed for the resolution of non-tariff barriers affecting our meat trade as positive steps to improve our bilateral trade and investment relationship.

During the speech, Ambassador Marantis also highlighted progress being made in negotiating the Trans-Pacific Partnership (TPP), a high standard, broad-based regional trade agreement that will be the key platform for future U.S. economic engagement in the Asia-Pacific region. The Philippines has expressed interest in potentially joining TPP at some point in the future, although it is not currently part of the initiative. Ambassador Marantis expressed U.S. willingness to be helpful as the Philippines considers potential

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<sup>18</sup> Ambassador Kirk Meets With Canadian Trade Minister Ed Fast- Discusses Canada's Interest in Joining Trans-Pacific Partnership (TPP) Negotiations, March 8

<sup>19</sup> United States and Japan Hold Expert-level Trans-Pacific Partnership Consultations, Feb 2012, at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/february/united-states-and-japan-hold-expert-level-trans-p>

participation, both in explaining potential obligations and in creating building blocks to potential membership.<sup>20</sup>

**US- Caribbean Community (CARICOM)** - On March 31, 2012, USTR held a meeting of the U.S.-Caribbean Community (CARICOM) Trade and Investment Council in Georgetown, Guyana. The United States and CARICOM leaders discussed progress towards a Trade and Investment Framework Agreement (TIFA). The United States expressed openness to a potential extension of benefits available under the Caribbean Basin Initiative (CBI) to eligible CARICOM member states and other Caribbean nations. The Council agreed to explore greater cooperation on various issues including small businesses and intellectual property, among others. The United States and CARICOM pledged to continue close cooperation, and agreed to hold the next Council meeting in the United States.

The leaders reviewed the strong and important trading and economic relationship between the Member States of the Caribbean Community (CARICOM) and the United States. They noted that over the last three years, bilateral trade between has grown from \$15.7 to \$21.8 billion, an increase of 39 percent. The benefits of expanding trade have flowed to businesses, farmers, workers, and consumers.

Background- CARICOM is a group of 15 Caribbean nations and dependencies. The Trade and Investment Council was established on July 22, 1991. Since 1983, the Caribbean Basin Initiative (CBI) has granted unilateral duty-free treatment for imports of certain eligible articles from CBI beneficiary countries. We discussed the operation of the CBI and how to better take advantage of the opportunities available under that initiative. Currently 17 countries and dependent territories receive benefits under the Caribbean Basin Economic Recovery Act (CBERA). Seven of these countries and dependent territories receive benefits under the Caribbean Basin Trade Partnership Act (CBTPA). Today the United States agreed that upon request, it would begin a process to consider granting unilateral trade benefits under the CBTPA for Caribbean Basin countries and dependent territories that currently do not receive those benefits.<sup>21</sup>

**US-NAFTA**- On April 20, 2012, United States Trade Representative Ron Kirk chaired the meeting of the North American Free Trade Agreement (NAFTA) Free Trade Commission (FTC). The representatives discussed ways to enhance competitiveness, expand exports and spur growth among small- and medium-sized businesses in the three countries.<sup>22</sup>

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<sup>20</sup> Ambassador Marantis Arrives in Manila; Gives Speech on U.S.-Philippine Trade Relationship, Feb 2012, at <http://www.ustr.gov/about-us/press-office/blog/2012/february/ambassador-marantis-arrives-manila-gives-speech-us-philippi>

<sup>21</sup> Joint Statement from U.S.-CARICOM Trade and Investment Council Meeting, March 2012, Press release, <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/joint-statement-us-caricom-trade-and-investment-coun>

<sup>22</sup> U.S. Trade Representative Ron Kirk Concludes Meeting of the North American Free Trade Agreement Free Trade Commission, April 20, 2012 press release at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/april/us-trade-representative-ron-kirk-concludes-meeting-n>

Previously on April 3, 2012, a joint statement from 2012 NAFTA commission meeting was published. The highlights of this joint statement included:

- *We are pleased to note that the Working Group on Rules of Origin (WGRO) has reached agreement on a fourth set of changes to the NAFTA rules of origin that will further facilitate the free trade among our countries. Annual trilateral trade in these goods is approximately \$135 billion. We will each undertake our respective domestic procedures for consultation in order to implement these changes as quickly as possible. We have instructed the WGRO to begin work on a fifth set of changes to the NAFTA rules of origin, including for areas of interest that were not covered under this fourth set of changes.*
- *Since all of the tariff cuts under NAFTA were implemented either on time or ahead of schedule, we have developed additional new and creative ways to increase trade. We agreed to pursue closer sectoral cooperation to enhance trade in chemicals, beginning with exploring work on rules of origin, customs procedures and classification. In this regard, we asked the relevant NAFTA working groups and committees to address issues in these areas and seek means to reduce unnecessary differences in regulations and procedures with a view towards reducing transaction costs and facilitating trade.*
- *In 2009, we established an ad hoc working group composed of senior trade officials to explore areas of potential collaboration between the FTC and the North American Commission for Environmental Cooperation (CEC). Today we approved that group's work plan to ensure ongoing cooperation and communication between the FTC and the CEC to involve Joint Ad Hoc Working Group participation in CEC project planning and implementation; to foster the environmental goals of the NAFTA Work Plan and its committees, and to undertake initiatives that address linkages between trade and the environment, such as exchanging information on the trade flows and cross-border supply chains in used electronics within North America; and exploring opportunities to facilitate the efforts of partner transport and environmental departments in the United States, Mexico and Canada to green transportation at the borders.*
- *We will continue to support efforts by our designated senior trade officials to improve coordination between the FTC and the Commission for Labor Cooperation (CLC), and more broadly, our labor and trade ministries. We also support on-going discussions among the CLC Council Designees to improve the functioning of the NAFTA labor side agreement to develop a robust plan of cooperative activities on labor matters of mutual interest. We take note of the collaboration among the three labor ministries as part of the G20 Labor and Employment Ministerial hosted this year by Mexico.*
- *Our three countries have cooperated closely to more effectively combat the challenges of IPR infringement, in the context of piracy and counterfeiting. In 2007 we joined together with other countries to launch negotiations of the Anti-Counterfeiting Trade Agreement (ACTA). The United States, Canada and six other countries signed the ACTA in October 2011. Mexico will continue to work on a comprehensive reform to its legal system to achieve the high standards pursued under the ACTA.*
- *We had a robust discussion on the experiences of small and medium sized enterprises (SMEs) in North America. Small Business Development Centers (SBDCs) in the United States and Mexico are already linking SMEs for trade opportunities through an interactive platform, SBDCGlobal.com. Following on the 2011 FTC, Canada began exploring the potential to join the SBDCGlobal.com network. In the coming year, Canada will engage stakeholders in consultations regarding the possibility of joining the SBDCGlobal network.*
- *One of the main challenges that SMEs face is access to information. To address this, we released "The NAFTA Certificate of Origin: Frequently Asked Questions," a publication designed to answer basic questions about completing that form. This document will be available on each of our websites. As instructed by the Commission last year, the NAFTA SME task force was created to propose several action items that would help SMEs reap the benefits of our*

*integration and the development of regional supply chains. The Commission instructed officials to identify additional means, including the production of informational materials and existing platforms such as Mexico's upcoming SME Week, to meet the distinct requirements of SMEs to allow them to take advantage of export opportunities.*

- *We reaffirm our commitment to the effective operation of the NAFTA's Dispute Settlement provisions.*
- *The Trans-Pacific Partnership (TPP) provides an opportunity to further deepen our trade relationship and create jobs. The United States welcomes Canada's and Mexico's interest in joining TPP as ambitious partners.*
- *Reiterating our concern with recent expressions of trade protectionism in some parts of the world, which can affect trade flows and have an impact on growth and employment, we look forward to the outcomes in this regard of the G20 Trade Ministerial conference in Puerto Vallarta, Mexico, the 19th and 20th of April.*
- *We acknowledge the work of our three national sections of the NAFTA Secretariat in developing a pilot system of electronic filing and archival of documents in Chapter 19 proceedings. We encourage the Chapter 19 Working Group to continue with testing the pilot project and report its results to the FTC. We will ask our officials to explore the possibility of whether any clarifications with respect to Chapter 11 may be appropriate and report back to the FTC.*
- *We recognize the importance of the NAFTA committees and working groups as they carry out the NAFTA Work Plan and sustain our working relationship. We encourage our officials to ensure a strong working relationship that will allow us to address effectively issues of mutual interest.<sup>23</sup>*

**US-Tunisia-** On March 27, 2012, officials from the United States and Tunisia met in Tunis to explore steps to stimulate trade and investment between themselves and with other partners in the Middle East/North Africa (MENA) region. At the meeting of the bilateral Trade and Investment Framework Agreement (TIFA) Council, the governments built on the efforts of bilateral working groups formed last autumn when they re-launched the TIFA process. Talks focused on strategies to bolster bilateral trade and investment ties, to strengthen business confidence and in particular to enable small and medium sized enterprises to find new business opportunities in U.S., Tunisian and other regional markets.

Background- The United States and Tunisia signed a bilateral Trade and Investment Framework Agreement (TIFA) in 2002. The TIFA is designed to give the parties a platform for discussing a wide range of trade and investment issues. The Trade and Investment Council serves as the joint steering group for discussions under the TIFA.<sup>24</sup>

**US-Sri Lanka-** During March, 2012, officials from the Governments of the United States and Sri Lanka met to continue their trade dialogue and evaluate progress under the United States-Sri Lanka Trade and Investment Framework Agreement (TIFA). The officials discussed a wide range of trade and investment issues including market access, the U.S. Generalized System of Preferences (GSP), labor, trade promotion efforts, intellectual property rights, agriculture, promoting women entrepreneurs, and sector-specific investment challenges. Progress on all of these trade and investment issues fosters economic growth, thus providing a strong foundation for inclusive economic development.

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<sup>23</sup> Joint Statement from 2012 NAFTA Commission Meeting, Press release, April 2012, at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/april/joint-statement-2012-nafta-commission-meeting>

<sup>24</sup> United States and Tunisia Discuss New Approaches to Foster Trade and Investment, March 2012, Press release at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/united-states-and-tunisia-discuss-new-approaches-fos>

The meeting marks the 10th session of the U.S.-Sri Lanka TIFA Council. The U.S.-Sri Lanka TIFA, signed in 2002, has been the primary forum for bilateral trade and investment discussions between the two countries. The TIFA process has been the focal point of a sustained and multi-faceted high-level engagement between the United States and Sri Lanka on trade and investment issues, including addressing impediments to greater trade and investment flows between the two countries. Sri Lanka is currently the 80th largest goods trading partner of the United States with \$2.4 billion in two-way goods trade in 2011. Sri Lanka was the United States' 114th largest goods export market in 2011. U.S. goods exports to Sri Lanka were \$307 million, up 71.7 percent (\$128 million) from 2010. Sri Lanka's exports to the United States were worth approximately \$2 billion demonstrating a growth of 20 percent over 2010.

The United States and Sri Lanka agreed to establish a number of TIFA Committees to continue work throughout the year on several important bilateral trade and investment issues. The new TIFA Committees created cover intellectual property, customs cooperation, and labor affairs. The United States and Sri Lanka also agreed to continue discussions on the possibility of establishing a committee on the empowerment of women entrepreneurs. Senior officials discussed a range of labor-related matters, including Sri Lanka's progress in addressing issues raised pursuant to the 2010 GSP review and an International Labor Organization technical assistance project funded by the U.S. Department of Labor. The labor affairs committee will provide a forum for continuing dialogue and collaboration on labor issues of mutual interest.<sup>25</sup>

**US-Brazil-** On March 13, 2012, the USTR hosted the first meeting of the U.S. - Brazil Commission on Economic and Trade Relations. The bilateral Commission was established by the United States - Brazil Agreement on Trade and Economic Cooperation (ATEC), which was signed in March 2011, during President Obama's trip to Brazil. During the March 13th meeting, the United States and Brazil agreed to explore greater cooperation on a variety of issues including investment, intellectual property rights and innovation, cross-border trade in services, among other issues. Agricultural biotechnology was highlighted as an area of current cooperation and great potential for both countries, since the United States and Brazil are the two largest cultivators of biotech crops. The two governments pledged continuing close cooperation and agreed to hold the next meeting of the Commission in Brazil.<sup>26</sup>

**US-Panama-** On March 14, 2012, U.S. Trade Representative Ron Kirk met with Panamanian Commerce and Industry Minister to discuss progress on the implementation of the U.S.-Panama trade agreement. Ambassador Kirk highlighted the importance of Panama as a vital commercial partner and cited the pending expansion of the Panama Canal as a critical opportunity for increased trade to support American jobs. Both Ambassador Kirk and Minister Quijano agreed to continue working intensively to bring the Agreement into force as quickly as possible, while ensuring that all obligations are fully met.

Efforts seem to be proceeding with a sense of urgency as both the United States and Panama are eager to seize the benefits of a win-win agreement that will enhance both trade between and jobs in our countries. For

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<sup>25</sup> Joint Readout of the 10th United States and Sri Lanka TIFA Joint Council Meeting, March 2012, Press release at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/joint-readout-10th-united-states-and-sri-lanka-tifa>

<sup>26</sup> USTR Hosts First Meeting of the U.S. - Brazil Commission on Economic and Trade Relations, USTR, press, March 14, 2012 at: <http://www.ustr.gov/about-us/press-office/blog/2012/march/ustr-hosts-first-meeting-us-brzail-commission-economic-and-tra>

U.S. exporters, the benefits are clear: the U.S.-Panama trade agreement creates significant liberalization of trade in goods and services, including financial services. Nearly 90 percent of U.S. exports of consumer and industrial products to Panama will be duty-free immediately upon entry into force of the agreement, with remaining tariffs on these products phased out over ten years. The agreement also provides for immediate duty-free treatment for over half of U.S. agricultural exports to Panama (by value) with duties on most other agricultural goods phased out between 5 to 12 years and 15 to 20 years on certain agricultural products.

Along with these tariff reductions, the agreement includes important disciplines relating to customs administration and trade facilitation, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection. All of these measures will create a level playing field for U.S. exporters competing in Panama's critical market.<sup>27</sup>

**US-Argentina-** During March 2012, US raised several concerns against trade policy of Argentina at the WTO Council for Trade in Goods meeting which was co-sponsored by 14 WTO Members (Australia, the European Union, Israel, Japan, Korea, Mexico, New Zealand, Norway, Panama, Switzerland, Chinese Taipei, Thailand, Turkey and the United States).

The issues raised primarily dealt with: application of trade-restrictive measures taken by Argentina, which are adversely affecting imports into Argentina; broad use of non-automatic import licensing trade balancing requirements, and pre-registration and pre-approval of all imports; Argentina's non-automatic import licensing scheme has a trade-restrictive effect on imports; lack of transparency in Argentina's implementation and administration of its import licensing regime.

The joint statement issued by all members including the US stated that if, despite the concerns, Argentina continues to maintain these import-restrictive measures and practices, Argentina should provide a detailed written explanation of why in its view these measures and practices are consistent with WTO rules. Members have reserve their rights to pursue this matter further.<sup>28</sup>

## **AID FOR TRADE**

**US- Southeast Europe-** On January 11, 2012, the Overseas Private Investment Corporation (OPIC), the U.S. Government's development finance institution, provided \$50 million in financing to SigmaBleyzer Southeast European Fund IV, a private equity buyout fund established to make equity and equity-related investments in southeast European private and public companies. The fund has called 100 percent of committed capital from its limited partners and currently holds a portfolio of four platform investments, including Volia Limited (cable television), Covalact SA (dairy), Elandia Holdings Limited (retail

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<sup>27</sup> Ambassador Kirk Reviews Progress with Panamanian Commerce and Industry Minister Ricardo Quijano, USTR, press, March 14, 2012 at: <http://www.ustr.gov/about-us/press-office/blog/2012/march/ambassador-kirk-reviews-progress-panamanian-commerce-and-indus>

<sup>28</sup> Joint Statement on Argentina's Import Restricting Policies and Practices, Press release March 2012, at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/joint-statement-argentinass-import-restricting-polic>

pharmaceutical), and Harmelia Investments Limited (agriculture). This is the first private equity investment made by OPIC in Ukraine since restoring its programs in the country following the signing in December 2010 of an agreement resolving a dispute over an insurance claim paid by OPIC.<sup>29</sup>

**US-Afghanistan-** On January 27, 2012, the Overseas Private Investment Corporation (OPIC) and Afghan Growth Finance (AGF), a subsidiary of the Small Enterprise Assistance Funds (SEAF), signed an agreement to co-finance small business loans of up to \$11.5 million. The OPIC-AGF participation facility expands the existing partnership between the two by raising its existing \$4 million loan cap. Addressing the needs of a previously untapped market segment, the facility will provide small and medium-sized enterprises (SMEs) with access to capital in larger amounts and for long-term tenors – terms generally unavailable from other financial institutions in the Afghan market.<sup>30</sup>

**US-India-** On March 29, the Board of Directors of the Overseas Private Investment Corporation approved \$250 million in financing to help India’s premier infrastructure lender expand its lending to renewable energy and infrastructure projects, providing much-needed long-term capital to the country’s effort to keep pace with the sectors’ massive potential. India’s Infrastructure Development Finance Company (IDFC) will use the OPIC guaranty to expand its lending to solar photovoltaic projects, energy efficiency projects, projects that reduce energy consumption and/or demand, and wind farm projects, among others. The OPIC financing will also support IDFC’s “Go Green” initiative, which aims to mitigate the social, environmental and carbon footprint of its projects, as well as lending to infrastructure projects.<sup>31</sup>

**US-Ghana-** On March 29, 2012, the Board of Directors of the Overseas Private Investment Corporation approved \$150 million in political risk insurance to support the rehabilitation of nearly half the municipal water purification systems in Ghana. This investment is central to Ghana’s National Water Policy, which aims to increase the availability of clean water from 61 percent to 85 percent of the population by 2015. It will also help reduce waste by increasing the efficiency of the country’s water treatment plants from 77 percent utilization to 100 percent. The OPIC insurance will cover the Ghana National Water Infrastructure Modernization Project investment. Belstar Capital Ltd, a U.S. company, and Deutsche Bank arranged the \$150 million in debt financing.<sup>32</sup>

**US-Turkey-** On March 30, 2012, the Board of Directors of the Overseas Private Investment Corporation approved \$400 million in financing to support lending by one of Turkey’s leading banks to small and

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<sup>29</sup> OPIC provides \$50 million to Sigmableyzer investment fund to southeast Europe, January 11, 2012, <http://www.opic.gov/news/press-releases/2009/pr011112>

<sup>30</sup> OPIC and AGF enter new agreement to expand small business lending in Afghanistan, January 27, 2012 at: <http://www.opic.gov/news/press-releases/2009/pr012712>

<sup>31</sup> OPIC board to approve 250\$ million to expand renewable energy and infrastructure lending in India, March 29, 2012 at: <http://www.opic.gov/news/press-releases/2009/pr032912>

<sup>32</sup> OPIC board to invest \$150 million in insurance to rehabilitation Ghananian water system, 29 March, 2012 at: <http://www.opic.gov/news/press-releases/2009/pr032912b>

medium-sized enterprises (SMEs), a critical engine of economic growth in the country but one that has lacked access to long-term credit. The project will support women entrepreneurs in particular, following on a successful \$100 million OPIC loan in 2009 for SME lending to Türkiye Garanti Bankası A.Ş. that has supported over 9300 loans to SME borrowers in Turkey, approximately three-quarters of which were to women.<sup>33</sup>

**US-Africa-** On March 12, the U.S. Agency for International Development and Japan International Cooperation Agency (JICA) announced a partnership to promote investment and financing in the water sector across sub-Saharan Africa. The partnership seeks to galvanize private investment and financing and strengthen institutional capacity in Africa to develop and sustain water programs. USAID and JICA are exploring short-term opportunities for joint collaboration in African countries that may lead to long-term investment.<sup>34</sup>

**US-El-Salvadore-** On March 1, 2012, the governments of the United States and El Salvador finalized a framework for monitoring and evaluating the five-year effort. The monitoring and evaluation framework will track progress towards meeting the following goals:

- Reducing the national homicide rate
- Improving the public perception of insecurity
- Increasing prosecutions and convictions as percentage of violent crimes reported
- Generating per capita Gross Domestic Product (GDP) growth
- Increasing exports as a percentage of GDP
- Raising foreign direct investments as percentage of GDP.<sup>35</sup>

**US-Haiti-** On February 20, 2012, USAID announced an award to Chemonics International to implement the three-year Improved Cooking Technology Project in Haiti. Through close coordination with the Government of Haiti, the Haitian private sector and Haitian civil society, the project will establish a thriving local market on both the supply and demand sides as well as a sustainable industry for clean cooking solutions, including Liquefied Petroleum Gas (LPG) and more efficient biomass cookstoves. The use of firewood and charcoal in Haiti by individuals and small businesses has increased pressure on local natural resources and the environment. This reliance on charcoal is a major reason why forests now cover less than 2 percent of the country.<sup>36</sup>

### **PART III TRADE POLICY AND PRACTICE BY MEASURE**

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<sup>33</sup> OPIC board to approve \$400 million for SME lending in Turkey, with focus on women entrepreneurs 30 March, <http://www.opic.gov/news/press-releases/2009/pr033012>

<sup>34</sup> USAID and Japan International Cooperation Agency Cooperate on Supporting Water Development in Africa, March 14, 2012, <http://www.usaid.gov/press/releases/2012/pr120314.html>

<sup>35</sup> U.S. and El Salvador Advance Partnership for Growth Agreement, March 1, 2012, <http://www.usaid.gov/press/releases/2012/pr120229.html>

<sup>36</sup> USAID supports new Haiti project for clean cooking solutions, February 21, 2012, <http://www.usaid.gov/press/releases/2012/pr120221.html>

### **3.1 Trade Barrier's reports**

During April 2012, United States Trade Representative Ron Kirk sent to Congress and to President Obama three reports detailing significant achievements by the Obama Administration in reducing or removing key foreign government barriers to American exports. The reports describe how the Administration has fought for American jobs over the last year by working to reduce or eliminate unwarranted sanitary and phytosanitary (SPS) and technical barriers to trade (TBT) as well as other significant barriers to American exports.

The Report on Sanitary and Phytosanitary (SPS) Barriers to Trade focuses on unwarranted SPS barriers that block American agricultural exports. This year's report outlines the increasing opportunities for American agricultural products abroad, such as the removal of China's ban on live swine from the United States.

The Report on Technical Barriers to Trade (TBT), addresses unwarranted or overly burdensome technical barriers that make it difficult for American manufacturers and workers to sell their products abroad. For example, the report released today describes an agreement the United States reached with the European Union (EU) to allow organic products certified in the United States or in the EU to be sold as organic in either market. This partnership between the world's two largest organic producers will promote the growing American organic industry and support U.S. jobs and businesses.

The SPS and TBT reports are being released in conjunction with the 2012 National Trade Estimate (NTE) Report on Foreign Trade Barriers, an annual report that identifies foreign barriers to American exports of goods and services, foreign direct investment, and protection of intellectual property rights. The NTE report outlines the actions the Obama Administration has taken to address the export barriers described in the report. The measures identified in the three reports can both restrict American exports and limit the growth of jobs here at home.

Background- The 2012 National Trade Estimate (NTE) Report on Foreign Trade Barriers is the twenty-seventh annual report that surveys significant barriers to American exports. In accordance with section 181 of the Trade Act of 1974, as added by section 303 of the Trade and Tariff Act of 1984 and amended by section 1304 of the Omnibus Trade and Competitiveness Act of 1988, section 311 of the Uruguay Round Trade Agreements Act, and section 1202 of the Internet Tax Freedom Act, the Office of the U.S. Trade Representative is required to submit to the President, the Senate Finance Committee, and appropriate committees in the House of Representatives, an annual report on significant foreign trade barriers.<sup>37</sup>

### **3.2 Technical Barriers to Trade**

At the WTO meeting of Technical Barriers to Trade (TBT) Committee on March 20-21, 2012, United States raised a few concerns with respect of environmental labeling of certain countries. Specifically, the US raised disputes pertaining to:

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<sup>37</sup> U.S. Trade Representative Ron Kirk Highlights Obama Administration Accomplishments in Reducing Trade Barriers, April 20, 2012, Press release at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/us-trade-representative-ron-kirk-highlights-obama-administ>

- a Korean standard for thin-film solar panels
- various Mexican energy-labelling measures- Equipment and appliances which require an energy supply to operate and which meet the criteria set out in the Regulations of the Law for the sustainable use of energy are required to display clear and visible energy consumption information.
- a draft modification of two Colombian resolutions dealing with the control of emissions from heavy vehicles with a diesel motor

The members discussed the concerns pertaining to the relevant goods. No further policy action was initiated by the US. Apart from the above mentioned articles, 66 draft regulations affecting trade, were discussed by the member states. These ranged from requirements on motor vehicles to alcoholic drinks, tobacco, cosmetics and electrical equipment.<sup>38</sup>

### 3.3 Trade Remedies

#### Anti-dumping and Countervailing Duty Measures

The following table provides a summary of the antidumping and countervailing duty actions initiated in the United States during this quarterly period.

Concerned country	Matter involved	Status of proceedings
India, Vietnam, Oman and UAE	On March 27, 2012, the Department of Commerce announced its affirmative preliminary determinations in the countervailing duty (CVD) investigations of imports of circular welded carbon-quality steel pipe (certain steel pipe) from India and the Socialist Republic of Vietnam (Vietnam), and its negative preliminary determinations in the CVD investigations of imports of certain steel pipe from the Sultanate of Oman (Oman) and the United Arab Emirates (UAE).	Commerce preliminarily determined that Indian and Vietnamese producers/exporters have received countervailable subsidies of 285.95 percent, and 0.04 to 8.06 percent, respectively.  In the India investigation, mandatory respondents Zenith Birla (India) Ltd. and Lloyds Metals and Engineers Ltd. both received preliminary net subsidy rates of 285.95 percent, based on the application

<sup>38</sup> G/TBT/N/MEX/214, see also: Public health regulations remain high on members' agendas, TBT formal meeting, WTO: 2012 NEWS ITEMS, 20 and 21 March 2012 at: [http://wto.org/english/news\\_e/news12\\_e/tbt\\_20mar12\\_e.htm](http://wto.org/english/news_e/news12_e/tbt_20mar12_e.htm)

		<p>of adverse facts available. All other Indian producers/exporters also received a preliminary net subsidy rate of 285.95 percent.</p> <p>In the Oman investigation, mandatory respondent Al Jazeera Tube Mills Company SAOG received a preliminary net subsidy rate of 0.12 percent, which is <i>de minimis</i>. This results in a preliminary negative determination for Oman.</p> <p>In the UAE investigation, Commerce found that mandatory respondents Universal Tube and Plastic Industries, Ltd. and Abu Dhabi Metal Pipes and Profiles Industries Complex LLC did not benefit from countervailable subsidies. This results in a preliminary negative determination for the UAE</p> <p>As a result of the preliminary affirmative determinations for India and Vietnam, Commerce will instruct U.S. Customs and Border Protection (CBP) to collect a cash deposit or bond based on these preliminary rates. Because of the negative preliminary determinations, no cash deposit or bond will be required for imports from Oman and the UAE. The final determination is scheduled for August 2012.</p> <p>Source- <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-india-oman-uae-vietnam-steel-pipe-cvd-prelim-20120327.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-india-oman-uae-vietnam-steel-pipe-cvd-prelim-20120327.pdf</a></p>
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Mexico and China	<p>On March 20, 2012, the Department of Commerce announced its affirmative final determinations in the countervailing (CVD) and antidumping duty (AD) investigations of imports of galvanized steel wire (galvanized wire) from the People's Republic of China (China) (AD and CVD) and Mexico (AD).</p> <p>The scope of these investigations covers galvanized steel wire which is a cold-drawn carbon quality steel product in coils, of circular or approximately circular, solid cross section with any actual diameter of 0.5842 mm (0.0230 inch) or more, plated or coated with zinc (whether by hot-dipping or electroplating).</p>	<p>The ITC is currently scheduled to issue its final injury determination on or before May 3, 2012.</p> <p>If the ITC makes affirmative final determinations that imports of galvanized wire from China and/or Mexico materially injure, or threaten material injury to, the domestic industry, Commerce will issue CVD and AD orders.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-mexico-steel-wire-ad-final-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-mexico-steel-wire-ad-final-20120320.pdf</a></p>
China and Taiwan	<p>On March 20, 2012, the Department of Commerce (Commerce) announced its affirmative final determinations in the antidumping duty (AD) investigations of imports of certain stilbenic optical brightening agents (brightening agents) from the People's Republic of China (China) and Taiwan</p> <p>The merchandise covered by these investigations are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (<i>i.e.</i>, all derivatives of 4,4'-bis [1,3,5- triazin-2-yl] amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The certain stilbenic optical brightening agents covered by these investigations include final optical brightening agent products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of final optical brightening agent products</p>	<p>The U.S. International Trade Commission (ITC) is currently scheduled to issue its final injury determination on or before May 3, 2012.</p> <p>If the ITC makes affirmative final determinations that imports of brightening agents from China and/or Taiwan materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD orders. If the ITC makes negative injury determinations, these investigations will be terminated.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-taiwan-soba-adcvd-final-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-taiwan-soba-adcvd-final-20120320.pdf</a></p>

UAE	<p>On March 20, the Department of Commerce (Commerce) announced its affirmative final determination in the antidumping duty (AD) investigation of imports of certain steel nails (steel nails) from United Arab Emirates (UAE).</p> <p>Products covered by this investigation are certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Certain steel nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.</p>	<p>The U.S. International Trade Commission (ITC) is currently scheduled to issue its final injury determination on or before May 3, 2012.</p> <p>If the ITC makes an affirmative final determination that imports of steel nails from UAE materially injure, or threaten material injury to, the domestic industry, Commerce will issue an AD order. If the ITC makes a negative injury determination, this investigation will be terminated</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-uae-steel-nails-ad-final-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-uae-steel-nails-ad-final-20120320.pdf</a></p>
China	<p>On March 19, 2012, the Department of Commerce (Commerce) announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of imports of certain steel wheels (steel wheels) from the People's Republic of China (China).</p> <p>The products covered by these investigations are steel wheels with a wheel diameter of 18 to 24.5 inches. Rims and discs for such wheels are included, whether imported as an assembly or</p>	<p>The ITC is currently scheduled to issue its final injury determinations on or before April 30, 2012.</p> <ul style="list-style-type: none"> <li>• If the ITC makes an affirmative final determination that imports of steel wheels from China materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD and CVD orders. If the ITC makes a negative injury determination, these investigations will be terminated.</li> </ul>

	<p>separately. These products are used with both tubed and tubeless tires. Steel wheels, whether or not attached to tires or axles, are included. However, if the steel wheels are imported as an assembly attached to tires or axles, the tire or axle is not covered by the scope. The scope includes steel wheels, discs, and rims of carbon and/or alloy composition and clad wheels, discs, and rims when carbon or alloy steel represents more than fifty percent of the product by weight. The scope includes wheels, rims, and discs, whether coated or uncoated, regardless of the type of coating</p>	<p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-steel-wheels-adcvd-final-20120319.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-steel-wheels-adcvd-final-20120319.pdf</a></p>
<p>S. Korea and Mexico</p>	<p>On March 19, 2012, the Department of Commerce (Commerce) announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of imports of bottom mount combination refrigerator-freezers (bottom mount refrigerators) from the Republic of Korea (Korea) (AD/CVD) and Mexico (AD).</p> <p>The products covered by these investigations are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea and Mexico</p>	<p>The ITC is currently scheduled to issue its final injury determinations on or before April 30, 2012.</p> <p>If the ITC makes affirmative final determinations that imports of bottom mount refrigerators from Korea and Mexico materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD and CVD orders. If a CVD order is issued, LG Korea will be excluded from its requirements, based on its <i>de minimis</i> countervailable subsidy rate. Similarly, if an AD order is issued, Daewoo will be excluded from its requirements, based on its dumping margin of zero. If the ITC makes negative injury determinations, these investigations will be terminated</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-korea-mexico-bmcrf-ad-final-20120319.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-korea-mexico-bmcrf-ad-final-20120319.pdf</a></p>

China	<p>On March 22, 2012, the Department of Commerce (Commerce) announced the initiation of antidumping duty (AD) and countervailing duty (CVD) investigations of imports of drawn stainless steel sinks from the People’s Republic of China (China).</p> <p>The products covered by these investigations are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel (“Drawn Stainless Steel Sinks”). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of these investigations if they are included within the sales price of the Drawn Stainless Steel Sinks</p>	<p>The U.S. International Trade Commission (ITC) is scheduled to make its preliminary injury determination on or before April 16, 2012.</p> <p>If the ITC determines that there is a reasonable indication that imports from China materially injure, or threaten material injury to, the domestic industry, the investigations will continue, and Commerce will be scheduled to make its CVD and AD preliminary determinations in May and August 2012, respectively, unless the determinations are extended</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-dsss-adcvd-init-20120322.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-dsss-adcvd-init-20120322.pdf</a></p>
Taiwan and Vietnam	<p>On January 18, 2012, the Department of Commerce (Commerce) initiated AD and CVD investigations of imports of steel wire garment hangers from Taiwan (AD) and Vietnam (AD/CVD).</p> <p>The merchandise subject to these investigations is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers</p>	<p>The U.S. International Trade Commission (ITC) is scheduled to make its preliminary injury determinations on or about February 13, 2012.</p> <p>If the ITC determines that there is a reasonable indication that imports from Taiwan and Vietnam are materially injuring, or threatening material injury to, the domestic industry, the investigations will continue, and Commerce will be scheduled to make its CVD and AD preliminary determinations in March and June 2012, respectively.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-vietnam-taiwan-swgh-adcvd-init-20120119.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-vietnam-taiwan-swgh-adcvd-init-20120119.pdf</a></p>

Vietnam	<p>On January 18, 2012, the Department of Commerce (Commerce) initiated AD and CVD investigations of imports of utility scale wind towers from China (AD/CVD) and Vietnam (AD).</p> <p>The merchandise covered by these investigations is utility scale wind towers which are the steel towers that support the nacelle (an enclosure for an engine) and rotor blades for use in wind turbines that have electrical power generation capacities in excess of 100 kilowatts</p>	<p>The U.S. International Trade Commission (ITC) is scheduled to make its preliminary injury determinations on or about February 13, 2012.</p> <p>If the ITC determines that there is a reasonable indication that imports from China and Vietnam are materially injuring, or threatening material injury to, the domestic industry, the investigations will continue, and Commerce will be scheduled to make its CVD and AD preliminary determinations in March and June 2012, respectively.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-vietnam-uswt-adcvd-init-20120119.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-vietnam-uswt-adcvd-init-20120119.pdf</a></p>
S. Korea	<p>On February 10, 2012, the Department of Commerce (Commerce) announced its affirmative preliminary determination in the antidumping (AD) duty investigation of imports of large power transformers (LPTs) from the Republic of Korea (Korea).</p> <p>The scope of this investigation covers large liquid dielectric power transformers having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete</p>	<p>Commerce is currently scheduled to make its final determination in July 2012.</p> <ul style="list-style-type: none"> <li>• If Commerce makes an affirmative final determination, and the U.S. International Trade Commission (ITC) makes an affirmative final determination that imports of LPTs from Korea materially injure, or threaten material injury to, the domestic industry, Commerce will issue an AD order. The ITC is scheduled to make its final injury determination on or about August 21, 2012. Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-korea-lpt-ad-prelim-20120210.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-korea-lpt-ad-prelim-20120210.pdf</a></li> </ul>

China	<p>On March 20, 2012, the Department of Commerce (Commerce) announced its affirmative preliminary determination in the countervailing duty (CVD) investigation of imports of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from the People's Republic of China (China).</p> <p>On March 20, 2012, Commerce also announced a clarification of the scope of the ongoing AD and CVD investigations, finding that the scope covers not only imports of solar cells produced in China and solar modules/panels produced in China from Chinese-made solar cells, but also imports of solar modules/panels produced outside of China from solar cells produced in China. Commerce also found that the scope does not cover imports of modules/panels produced in China from solar cells produced in a third country. Changes in the scope are indicated in bold, below. As with all issues on the record, interested parties are welcome to comment on the scope clarification in their case briefs.</p> <p>The products covered by this investigation are crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.</p>	<p>Commerce is currently scheduled to make its final determination in June 2012. If Commerce makes an affirmative final determination, and the U.S. International Trade Commission (ITC) makes an affirmative final determination that imports of solar cells from China materially injure, or threaten material injury to, the domestic industry, Commerce will issue a CVD order. The ITC is scheduled to make its final injury determination in July 19, 2012.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-solar-cells-adcvd-prelim-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-solar-cells-adcvd-prelim-20120320.pdf</a></p>
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**Anti-dumping-legal issues**

**US-Vietnam**

Vietnam has sought for consultation with US pertaining to actions taken by the USDOC regarding its practice, as such, of:

- (1) improper use of the zeroing methodology in administrative reviews and sunset reviews,
- (2) improper application of an assessment rate to a country-wide entity in periodic reviews that is distinct from the all others rate, by way of USDOC's "separate rate" practice,

(3) requiring non-individually investigated respondents to respond to a questionnaire regarding independence from government control to qualify for the all others rate; and

(4) improper implementation of adverse Dispute Settlement Body rulings relating to US anti-dumping practices, actions, and measures, pursuant to Section 129 of the URAA.

The primary matters that the Government of Viet Nam would like to raise in the course of consultations would include the following:

(1) In the fourth and fifth administrative reviews, the zeroing of dumping margins when comparing export prices and normal value;

(2) in the fourth and fifth administrative reviews, the determination of dumping margins, both for investigated respondents and so-called separate rate respondents, above de minimis levels as a result of zeroing negative dumping margins for investigated respondents, and the consequent imposition, continuation, or collection of anti-dumping duties;

(3) in the fourth and fifth administrative reviews, the limited selection of respondents individually investigated, such that non-investigated companies are denied the opportunity to demonstrate the absence of dumping necessary to qualify for revocation of the anti-dumping duty order;

(4) in the fourth and fifth administrative reviews, the treatment of the so-called Vietnam-wide entity, including the designation of the entity as a "single" entity and the anti-dumping duty assigned to the entity, which was based on application of total adverse facts available;

(5) the continued use of the practices described in paragraphs (1)-(4) above in subsequent reviews;

(6) in the fourth and fifth administrative reviews, the USDOC's determination to not revoke the anti-dumping duty order with respect to three respondents: Minh Phu Group, CAMIMEX, and Grobest, despite evidence demonstrating the absence of dumping in the fourth administrative review and the absence of any evidence of dumping by these respondents in any of the prior reviews conducted by the USDOC;

(7) the use of zeroing to calculate dumping margins and determine duty assessment in the final results of the original investigation and first, second, third, fourth, and fifth administrative reviews, to the extent that the USDOC's use of the zeroing methodology in those determinations impermissibly inflated assessed anti-dumping duties and consequentially impacted the USDOC's revocation and five-year "sunset" review determinations in the measures at issue;

(8) the use of zeroing to calculate dumping margins and determine duty assessment in the final results of the original investigation and first, second, third, fourth, and fifth administrative reviews, to the extent that the USDOC's consistent use of the zeroing methodology in those determinations demonstrates the USDOC's continued and ongoing use of the methodology throughout the full course of the shrimp anti-dumping proceeding;

(9) the use of limited respondent selection in the original investigation and first, second, third, fourth, and fifth administrative reviews, to the extent that this practice denied respondents not selected for individual

review the opportunity to obtain revocation of the anti-dumping duty order in the measures at issue and impacted the USDOC's five-year "sunset" review determination;

(10) the use of limited respondent selection in the original investigation and first, second, third, fourth, and fifth administrative reviews, to the extent that these determinations demonstrate the USDOC's continued and ongoing use of this practice throughout the full course of the shrimp anti-dumping proceeding;

(11) the treatment of the so-called Vietnam-wide entity in the original investigation and the first, second, third, fourth, and fifth administrative reviews, to the extent that this practice impacted the USDOC's revocation and five-year "sunset" review determinations in the measures at issue;

(12) the treatment of the so-called Vietnam-wide entity in the original investigation and the first, second, third, fourth, and fifth administrative reviews, to the extent that these determinations demonstrate the USDOC's continued and ongoing use of this practice throughout the full course of the shrimp anti-dumping proceeding;

(13) in all of the anti-dumping proceedings of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam, the absence of any mechanism to provide individually investigated or non-individually investigated respondents the opportunity to establish the absence of dumping that is required for revocation of the anti-dumping duty order;

(14) in the final sunset review determination, the use of dumping margins calculated in the original anti-dumping investigation and/or subsequent administrative reviews, in which negative dumping margins had been zeroed, resulting in the determination that revocation of the anti-dumping orders would be likely to lead to continuation or recurrence of dumping;

(15) in the final sunset review determination, the failure to otherwise evaluate the facts in an unbiased and objective manner in determining the likelihood of the continuation or recurrence of dumping; and

(16) the use of WTO-inconsistent anti-dumping duty assessment rates applied to unliquidated entries that are assessed following a Section 129 determination that implements an adverse Dispute Settlement Body ruling.<sup>39</sup>

The fact that US practices on zeroing has been the bone of contention in several previous disputes (Refer to Review Reports I, II and III) continues in the final report as well. This time the dispute has been raised by a developing country unlike the previous disputes brought by developed nations such as EU and Japan. The arguments made by the US in its defense and the manner in which these consultations would be settled remains an interesting point for future observation.

### **US-China-India**

The trade row between the US and China over renewable energy trade policies could soon see additional players join the mix, with recent reports suggesting that India might launch its own anti-dumping probe into Chinese solar imports later. Meanwhile, Solarworld AG - one of Germany's largest solar products

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<sup>39</sup> WTO documents, WT/DS429/1, G/L/980, G/ADP/D91/1

manufacturers is now planning to launch a case in Europe against Chinese competitors, according to the company's top official.

The Indian government is reportedly considering the launch of its own anti-dumping probe into Chinese solar panel. Authorities in New Delhi have also been asked by some domestic manufacturers to levy a 15 percent tariff on imports of thin-film panels. Such a tariff, if implemented, would primarily affect US-based manufacturer First Solar Inc.<sup>40</sup>

## **PART IV MEASURES AFFECTING EXPORTS**

### **4.1 Trade Facilitation programs**

On February 17, 2012, the U.S. Foreign-Trade Zones (FTZ) Board, chaired by the Department of Commerce (Commerce), issued new regulations designed to improve the FTZ program's flexibility and responsiveness including for export activity and to enhance ease-of-use and transparency. With the Obama Administration's directive to reduce unnecessary red tape of the regulatory process to promote economic growth, innovation, competitiveness and job growth for U.S. companies and workers, the rule change is the first regulatory overhaul of the FTZ program in 20 years.

The new FTZ rule streamlines the application procedures manufacturers have to follow to get the benefits of an FTZ, and also streamlines the process that needs to be followed to designate new FTZ locations for individual companies' use making them faster, flexible and more efficient. The new regulations should reduce the application-related burden on users by more than 50%. The revised regulations also improve businesses' access to FTZs by updating provisions governing the local administration of FTZs, and simplifying and clarifying procedures so that businesses are able to use the program to its full potential and to quickly react to shifts in the marketplace.

Background- First established by the FTZ Act of 1934, the FTZ program boosts the U.S. economy by enhancing U.S. manufacturers' competitiveness, helping to maintain business activity in the United States, and creating jobs in the communities where they are located. FTZs may be used to warehouse imported and domestic products; with specific authority from the FTZ Board, companies may use FTZs for manufacturing (incorporating components into different, finished products). Products warehoused or manufactured in FTZs may ultimately be exported or shipped to the U.S. market. Companies in FTZs currently employ nearly 330,000 U.S. workers and export approximately \$30 billion a year in merchandise. There are currently more than 500 FTZs and FTZ subzones nationwide.

Manufacturing Provisions- The new regulations continue to require advance approval for manufacturing in FTZs, but significantly streamline the procedures and timeframe for issuing this type of approval. Specifically, the new regulations replace the prior manufacturing-approval procedures with a simpler and faster standard "notification" process. While the prior process required a complex application that took up

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<sup>40</sup> ICTSD reporting; "Chinese companies prefer dying to being bought, JinkoSolar says," BLOOMBERG, 6 January 2012; "India may join US-China trade spat to prevent solar 'disaster'," BLOOMBERG BUSINESSWEEK, 24 December 2011; "Solarworld planning China anti-dumping case in Europe, CEO says," BLOOMBERG, 9 January 2012; "US-China solar trade dispute may see India joining with probe," BLOOMBERG, 20 December 2011; "US solar companies urge SolarWorld drop China case," REUTERS, 20 December 2011

to 12 months to process the new rule will reduce the ordinary processing time for notifications by two-thirds, to 120 days. Under the new regulations, all proposed manufacturing activity will include a public comment period. If issues arise pertaining to the proposed manufacturing activity, the FTZ Board will be able to conduct a more extensive “application” process (akin to the prior process for all manufacturing proposals).

“Subzone” Designation for Individual Companies’ Use- The new regulations significantly streamline and expedite the procedures for designating locations as “subzones” for individual companies’ use. Information required for subzone applications has been radically simplified, with the ordinary application-processing time cut in half – from 10 months to 5 months (or less). The new regulations also draw a clear distinction between a new subzone designation for a company – thereby allowing the company to conduct activity not requiring additional, specific approval – and the separate process for the FTZ Board to consider potential manufacturing activity for the company, where applicable.<sup>41</sup>

## **PART V- MEASURES AFFECTING PRODUCTION AND TRADE**

### **5.1 Intellectual Property Rights**

The current review quarter primarily saw developments in United States’ International Intellectual Property Rights front.

At the formal meeting of IPR Council at the WTO during February 28-29, US played a pivotal role and many of its international policies including ACTA, its stance on the relationship between CBD and TRIPS etc. were brought at the discussion table.

During the meeting, participants to the Anti-Counterfeiting Trade Agreement (ACTA) including Australia, Canada, the European Union, Japan, Korea, Mexico, New Zealand, Singapore, Switzerland and the United States, stated that their main aim was to strengthen enforcement against proliferation of counterfeit goods. They assured other member states that ACTA does not target generic medicines nor would interfere with legitimate access to the Internet. They also said that the agreement is transparent, and that the full text is available to the public.

India raised its concerns about ACTA’s ability to undermine the TRIPS Agreement, and limit developing countries’ access to affordable medicine. It said that ACTA puts the interest of big companies ahead of consumers, citing cases of seizures by customs at European ports of generic medicines. China further opposed ACTA by stating that many provisions of ACTA go beyond the TRIPS provisions. Brazil stated that one-size fits-all approach envisaged by ACTA was not advisable. Bangladesh expressed concern that least-developed countries (LDCs) will lose flexibilities and access to generic medicine. Ecuador, Egypt and Thailand also expressed concerns.

The Council further continued its discussion of the agenda items on the review of the provisions of Article 27.3(b), the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD),

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<sup>41</sup> FACT SHEET: New Foreign-Trade Zones Regulations , Feb 17, 2012 at: <http://trade.gov/press/press-releases/2012/foreign-trade-zone-regulation-revision-promotes-flexibility-and-transparency-021712.asp>

and the protection of traditional knowledge and folklore. It requested the Chair to continue the consultations on the suggestion that the CBD Secretariat be invited to brief the Council on the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity.<sup>42</sup>

These policy decisions have a great bearing on the domestic policies of both developing and the developed nations. The controversy especially on the issue of Access and Benefit Sharing has resulted in a great stalemate between the North and the South. The recently negotiated meetings could also not provide any constructive suggestions on the table. The policy changes in this direction would remain a crucial trade policy development which would even concern India, owing to its vast resources of genetic and biological diversity.

## **PART VI TRADE POLICY BY SECTOR**

### **6.1 Agriculture**

(i) Every five years, Congress passes a bundle of legislation, commonly called the "Farm Bill" that sets national agriculture, nutrition, conservation, and forestry policy. The last Farm Bill was passed in 2008, and expires in 2012. The Agriculture Reforms, Food and Jobs Act, 2012, will be debated in the US Congress (Senate and House of Representatives) during June- July, 2012. The Farm Bill will shape the US Agricultural and Food Assistance programme during 2013-2015.<sup>43</sup> It is reported that when compared to the 2008 Farm Bill it will reduce spending by \$ 23.6 billion savings; \$ 15 billion in cuts comes in from the commodity subsidy programmes, US 5 billion comes in from the \$ 64 billion conservation programmes and a \$ 3.8 billion cut on food stamps.

(ii) On March 8, 2012, United States Trade Representative Ron Kirk announced that the U.S. Government is requesting consultations with the Government of India under the dispute settlement provisions of the World Trade Organization (WTO) concerning India's prohibition on certain American agricultural exports, including poultry meat and chicken eggs. US claims include that since February of 2007, India has formally banned imports of various agricultural products from the United States, in order to prevent outbreaks of avian influenza in India. US further believe that India instituted this ban even though US did not have an outbreak of High Pathogenic Avian Influenza ("HPAI") since 2004. According to the US, international standards for avian-influenza control also do not support the imposition of import bans due to detections of low pathogenic avian influenza (LPAI), the only kind of AI found in the United States since 2004. Previously, the United States had asked India to justify its claim that a ban on products from the United States is necessary. To US' understanding, India till date, has not provided valid, scientifically-based justification for the import restrictions. <sup>44</sup> Thus the process of consultations has been initiated. The violations have been claimed with respect to several provisions of the SPS Agreement as well as Article I and XI of GATT. (Refer to Dispute Settlement Updates for elaboration of these claims).

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<sup>42</sup> Intellectual property council discusses anti-counterfeiting pact, tobacco packaging , News 2012, IPR Formal Meeting, Feb 28-29, available at: [http://wto.org/english/news\\_e/news12\\_e/trip\\_28feb12\\_e.htm](http://wto.org/english/news_e/news12_e/trip_28feb12_e.htm)

<sup>43</sup> Bridges Weekly, Vol. 16, No. 25, <http://ictsd.org> (last visited June 2, 2012)

<sup>44</sup> U.S. Trade Representative Kirk Enforces Rights of U.S. Farmers Through New WTO Dispute Against India's Discriminatory Agricultural Trade Practices, March 2012, Press release at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/march/us-trade-representative-kirk-enforces-rights-us-farm>

Cause for consultation	Alleged measures	India's policies and legislations under challenge
<p>India's measures prohibiting the import of agricultural products from the United States</p>	<p>India's measures prohibit the import of agricultural products from the United States including the following:</p> <ul style="list-style-type: none"> <li>(a) domestic and wild birds (including poultry and captive birds);</li> <li>(b) day old chicks, ducks, turkey, and other newly hatched avian species;</li> <li>(c) un-processed meat and meat products from Avian species, including domesticated, wild birds and poultry;</li> <li>(d) hatching eggs;</li> <li>(e) eggs and egg products (except Specific Pathogen Free eggs);</li> <li>(f) un-processed feathers;</li> <li>(g) live pigs;</li> <li>(h) pathological material and biological products from birds;</li> <li>(i) products of animal origin (from birds) intended for use in animal feeding or for agricultural or industrial use; and</li> <li>(j) semen of domestic and wild birds including poultry.</li> </ul>	<p>Indian Livestock Importation Act, 1898 (9 of 1898) and</p> <p>Orders issued by India's Department of Animal Husbandry, Dairying, and Fisheries pursuant to the Livestock Act, most recently S.O. 1663(E), which was published in the Gazette of India on July 19, 2011 and which bans the import of the products as listed along side.</p>

(Source- WTO documents, G/SPS/GEN/1138)

**Excerpts from US officials remarks over US-India WTO consultation on Poultry**

*“Last week President Obama created the Interagency Trade Enforcement Center, demonstrating that the United States simply will not stand by while our trading partners unfairly disadvantage American farmers, workers and businesses,”* said Ambassador Kirk. *“As we have shown through the creation of this new unit, and the Obama Administration’s strong record of enforcing trade agreements and WTO commitments, we will continue to insist that all of our trading partners around the world play by the rules and uphold their WTO obligations.”*

*“India’s ban on U.S. poultry is clearly a case of disguising trade restrictions by invoking unjustified animal health concerns. The United States is the world’s leader in agricultural safety and we are confident that the WTO will confirm that India’s ban is unjustified. Opening India’s market to*

This has been a major development in the Dispute Settlement front. The negotiations and consultations between the two nations would have a great bearing on the manner in which the agricultural imports between the nations would be affected.

(ii) During February 2012, the Obama Administration announced a \$15 million multi-agency Rural Jobs and Innovation Accelerator challenge to spur job creation and economic growth in distressed rural communities. This competition, which is being funded by the U.S. Department of Commerce's Economic Development Administration (EDA), the U.S. Department of Agriculture (USDA), the Delta Regional Authority (DRA), and the Appalachian Regional Commission (ARC), was designed by the Taskforce for the Advancement of Regional Innovation Clusters and the White House Rural Council.

The national effort will support rural partnerships by identifying and leveraging local assets and strengthening linkages to industry clusters. Strong industry clusters promote robust economic ecosystems and the development of a skilled workforce, both of which are critical to long-term regional success in rural areas. Last year's 20 challenge winners—both rural and urban public-private partnerships—generated millions in matching funds and their projects are expected to help create hundreds of new businesses and thousands of new jobs.<sup>45</sup>

(iii) During January 2012, Agriculture Secretary Tom Vilsack announced that USDA has approved a conditional commitment for a \$25 million guaranteed loan to build a biorefinery plant with funding support from USDA's Biorefinery Assistance Program. USDA's Biorefinery Assistance Program was authorized by Congress under the 2008 Farm Bill. It provides loan guarantees to capitalize on the growing opportunities in renewable energy provided by advanced biofuels. The Program is designed to assist with the commercial deployment of production technologies to produce advanced biofuels, and thereby increase the energy independence of the United States; promote resource conservation, public health, and the environment;

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<sup>45</sup> Obama Administration Announces \$15 Million Multi-Agency Challenge To Foster Job Creation and Business Innovation in Rural Communities Nationwide, March 8, 2012, USDA, at: [http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/03/0089.xml&navid=NEWS\\_RELEASE&navtype=RT&parentnav=LATEST\\_RELEASES&edeployment\\_action=retrievecontent](http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/03/0089.xml&navid=NEWS_RELEASE&navtype=RT&parentnav=LATEST_RELEASES&edeployment_action=retrievecontent)

diversify markets for agricultural and forestry products and agriculture waste material; create jobs and enhance the economic development of the rural economy.<sup>46</sup>

## 6.2 Telecommunication Sector

During April 2012, United States Trade Representative Ron Kirk announced the results of the 2012 annual review of the operation and effectiveness of telecommunications trade agreements under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (“1377 Review”). The Report of the 1377 Review identifies barriers facing U.S. telecommunications service and equipment suppliers as well as specific telecommunications-related issues on which USTR will focus its monitoring and enforcement efforts this year.

The report focuses on a broad range of concerns, including:

Issues Affecting Telecommunications Equipment Trade-The report highlights the concern that U.S. equipment manufacturers may be disadvantaged by the growing use of local content requirements in countries such as Brazil, India, and Indonesia. The report also discusses the use of equipment standards and conformity assessment procedures (including testing requirements) that act as barriers to entry for U.S. telecommunications equipment, including policies in the following countries: China (multi-level protection scheme), India (restrictions on use of strong encryption and onerous security requirements for the importation of telecommunications network equipment), and Brazil, China, Costa Rica and India (mandatory certification requirements and requirements for local testing).

Cross-Border Data Flows and Internet Enabled Trade in Services-The report highlights concerns with restrictions on data access and transfers, focusing on issues in China and Vietnam and issues with Voice over Internet Protocol (“VoIP”) services generally.

Independent and Effective Regulator-The report also discusses issues relating to licensing of Internet via satellite services in Costa Rica.

Foreign Investment-Foreign investment limits, typically in the form of limits on the percentage of equity a foreign firm can control, were widely cited by commenters as a trade-distortive barrier. This year’s report focuses on Thailand, Canada and Mexico.

Issues with Access to Major Supplier Networks- The report highlights problems that competitive telecommunications carriers have encountered in Germany and Mexico trying to access an incumbent operator’s network and ongoing efforts to address these issues.

Fixed and Mobile Call Termination Rates-The report again highlights concern that U.S trading partners are seeking ways to increase the rates U.S. telecommunications operators must pay in order to deliver long-

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<sup>46</sup> Agriculture Secretary Vilsack Announces Support for a New Advanced Biofuel Production Facility, Jan 20, 2012, USDA at: [http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/01/0017.xml&navid=NEWS\\_RELEASE&navtype=RT&parentnav=LATEST\\_RELEASES&edeployment\\_action=retrievecontent](http://www.usda.gov/wps/portal/usda/usdahome?contentid=2012/01/0017.xml&navid=NEWS_RELEASE&navtype=RT&parentnav=LATEST_RELEASES&edeployment_action=retrievecontent)

distance calls into the foreign operators' countries (the "termination rate"), resulting in higher costs for U.S. carriers and higher prices for U.S. consumers. This year's report focuses on problems in El Salvador, Ghana and Jamaica.

Satellite and Submarine Cables-The report highlights problems regarding U.S. operators' ability to offer satellite capacity to customers in China and India and in obtaining competitive access in a timely fashion to cable landing stations (CLS) located in India.

Background- Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires USTR to review compliance by trade partners with trade agreements regarding telecommunications products and services (mainly, WTO and FTA commitments) by March 31 of each year. International trade agreements, including the WTO's General Agreement on Trade in Services (GATS) and U.S. free trade agreements, provide rules designed to ensure that companies have reasonable access to telecommunications networks, that competitive conditions are maintained, and that regulators act in a transparent and effective manner. These agreements also address conditions affecting the competitive supply of telecommunications equipment in foreign markets. USTR will continue to use these tools to assist in opening markets to give U.S. companies the ability to supply new and innovative products and services abroad.<sup>47</sup>

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<sup>47</sup> USTR Announces Results of Annual 1377 Review of Telecommunications Trade Agreements, April 2012 at: <http://www.ustr.gov/about-us/press-office/press-releases/2012/april/ustr-announces-results-annual-1377-review-telecommun>

## WTO-DISPUTE SETTLEMENT UPDATES

### Consultation

Complainant	Respondent	Provisions involved	Disputed Matter	Current Status
US, EU and Japan	China	The United States claims that these measures are inconsistent with: Articles VII, VIII, X and XI of the GATT 1994; and paragraphs 2(A)2, 2(C)1, 5.1, 5.2, 7.2, 8.2 and 11.3 of Part I of China's Protocol of Accession as well as China's obligations under paragraph 1.2 of Part I of the P Protocol of Accession.	On 13 March 2012, the United States requested consultations with China with respect to China's restrictions on the export of various forms of rare earths, tungsten and molybdenum. The request refers to materials falling under but not limited to 212 eight-digit Chinese Customs Commodity Codes and over 30 measures. The request also refers to a number of Chinese published as well as unpublished measures that, operating separately or collectively, allegedly impose and administer export restrictions. These restrictions include export duties, export quotas, minimum export price requirements, export licensing requirements and additional requirements and procedures in connection with the administration of the	On 22 March 2012, the European Union and Japan requested to join the consultations. On 26 March 2012, Canada requested to join the consultations. Subsequently, China informed the DSB that it had accepted the requests of Canada, the European Union and Japan to join the consultations.

			quantitative restrictions.	
United States	India	<p>The United States claims that the measures appear to be inconsistent with:</p> <p>Articles 2.2, 2.3, 3.1, 5.1, 5.2, 5.5, 5.6, 5.7, 6.1, 6.2, 7, and Annex B, paragraphs 2, 5 and 6 of the SPS Agreement; and Articles I and XI of the GATT 1994.</p> <p>The United States also claims that the measures appear to nullify or impair the benefits accruing to the United States directly or indirectly under the cited agreements.</p>	<p>On 6 March 2012, the United States requested consultations with India with respect to the prohibitions imposed by India on the importation of various agricultural products from the United States purportedly because of concerns related to Avian Influenza.</p> <p>The measures at issue are: the Indian Livestock Importation Act, 1898 (9 of 1898) ("Livestock Act"); a number of orders issued by India's Department of Animal Husbandry, Dairying, and Fisheries pursuant to the Livestock Act, most recently S.O. 1663(E); as well as any amendments, related measures, or implementing measures.</p>	On 15 March 2012, Colombia requested to join the consultations
Vietnam	United States	Anti-dumping procedure and section 129 of the Uruguay Round Agreements Act	<p>The details of the consultation include:</p> <p>(1) The imposition of anti-dumping duties and cash deposit requirements pursuant to the final results of the United States Department of Commerce's fourth</p>	On 20 February 2012, Vietnam requested consultations with the United States under the dispute settlement system concerning the latter's anti-dumping measures on certain frozen warm water shrimp from Vietnam.

		<p>administrative review for the period from 1 February 2008 to 31 January 2009, in Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 75 Fed. Reg. 4771 (August 9,2010);</p> <p>(2) The fourth administrative review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam insofar as it did not revoke the anti-dumping duty order with respect to certain respondents requesting such revocation;</p> <p>(3) The imposition of anti-dumping duties and cash deposit requirements pursuant to the final results of the USDOC's fifth administrative review for the period from 1 February 2009 through 31 January 2010, in Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty</p>	
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			<p>Administrative Review, 76 Fed.Reg. 56158 (September 12,2011);</p> <p>(4) The fifth administrative review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam insofar as it did not revoke the anti-dumping duty order with respect to certain respondents eligible for such revocation;</p> <p>(5) Any other ongoing or future anti-dumping administrative reviews, and the preliminary and final results thereof, related to the imports of certain frozen warmwater shrimp from Viet Nam (DOC Case A-552-802), as well as any assessment instructions, cash deposit requirements, and revocation determinations issued pursuant to such reviews;</p> <p>(6) The final results Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of the First Five-year "Sunset" Review of the Antidumping Duty</p>	
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			<p>Order, 75 Fed. Reg. 75965 (Dec. 7, 2010), in which the USDOC determined that revocation of the anti-dumping duty order would be likely to lead to the continuation or recurrence of dumping; and</p> <p>(7) Section 129 of the Uruguay Round Agreements Act ("URAA"), 19 U.S.C. §3538, as elaborated upon in the Statement of Administrative Action accompanying the URAA and as implemented by the relevant United States authorities.</p>	
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### Establishment of Panel

Complainant	Respondent	Provisions involved	Disputed Matter	Current Status
Korea	United States	Anti-dumping procedure	Korea explained that consultations with the US, requested on 31 January 2011, allowed for a better understanding of the parties' positions but failed to resolve the dispute. Korea noted that the US announced it would no longer use zeroing in annual reviews and welcomed the US efforts. Korea regretted that the US plans did not go far enough to fully address its concerns. Korea noted that zeroing in administrative reviews had repeatedly been found inconsistent with the WTO Anti-dumping Agreement and that the US was	On February 22, 2012, the DSB established a panel following Korea's first time request (WT/DS420/5) to review anti-dumping measures imposed by the US on steel

			<p>expected to amend the methodology accordingly.</p> <p>The US said that its Department of Commerce published on 14 February 2012 a modification to its procedure regarding the use of zeroing in anti-dumping reviews. The US said that this modification would address the matter covered in Korea's panel request. The US added that the process of modifying its methodologies to respond to DSB rulings on zeroing had been completed and, therefore, moving forward with this dispute served no purpose.</p> <p>The EU, Japan, China, Norway and Mexico reserved their third-party rights</p>	<p>products from Korea. The US did not object to the establishment of the panel, referring to the bilateral procedural agreement with Korea (WT/DS420/6)</p>
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#### Matters going to Appellate Stage

Complainant	Respondent	Provisions involved	Disputed Matter	Current Status
Canada	United States	<p>Rules of Origin: Art. 2, 2(b), 2(c), 2(e), 2(j)</p> <p>Sanitary and Phytosanitary Measures (SPS): Art. 5, 7, 2</p> <p>Technical Barriers to Trade (TBT): Art. 2, 2.1, 2.2, 2.4</p> <p>GATT 1994: Art.</p>	<p>The United States seeks review by the Appellate Body of the Panel's findings and conclusion that U.S. country of origin labeling requirements are inconsistent with Article 2.1 of the Agreement on Technical Barriers to Trade (the "TBT Agreement"). This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations including:</p> <p>(a) the Panel's finding that the U.S. COOL requirements treat imported livestock differently than domestic livestock.</p> <p>(b) the Panel's finding that the U.S. COOL requirements accord less favorable treatment to imported livestock than that accorded to domestic livestock by modifying the conditions of competition to</p>	<p>On 23 March 2012, the US notified the Dispute Settlement Body of its decision to appeal the panel reports in DS384 and DS386. (COOL dispute)</p>

		<p>X:3(a), III:4, IX, IX:2, X:3, XXIII:1(b)</p>	<p>the detriment of imported products.</p> <p>The United States also requests the Appellate Body to find that the Panel acted inconsistently with Article 11 of the DSU by failing to make an objective assessment of the facts related to these issues, specifically that segregation of livestock is "necessitated" by the COOL requirements, that commingling is not occurring on a widespread basis, and that the COOL requirements resulted in a "price differential" between domestic and imported livestock, and by using these faulty factual findings to support its conclusions with regard to different treatment and less favorable treatment.</p> <p>The United States also seeks review of the Panel's findings and conclusion that the COOL requirements are inconsistent with Article 2.2 of the TBT Agreement. This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations including:</p> <p>(a) with regard to section VII.D.3(b) of the Panel Reports, the Panel's finding that the COOL measure is "trade restrictive" for purposes of Article 2.2.7</p> <p>(b) with regard to section VII.D.3(c) of the Panel Reports, the Panel's failure to consider all relevant information regarding the U.S. chosen level of fulfillment of the legitimate objective.<sup>8</sup></p> <p>(c) with regard to sections VII.D.3(d)-(e) of the Panel Reports: (1) the Panel's legal framework for determining whether a measure is "more trade-restrictive than necessary to fulfil a legitimate objective";(2) the Panel's finding that the COOL requirements do not fulfill the legitimate</p>	
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			<p>objective at the level the United States considers appropriate; and (3) the Panel's failure to require the complaining parties to meet their burden to prove that the measure is "more trade-restrictive than necessary" based on the availability of a significantly less trade-restrictive alternative measure that also fulfills the objective at the level the United States considers appropriate.</p> <p>The United States also requests the Appellate Body to find that the Panel acted inconsistently with Article 11 of the DSU by failing to make an objective assessment of the facts related to these issues, specifically the Panel's findings regarding the level at which the United States considers it appropriate to fulfill its objective.</p>	
Mexico	United States	<p>Technical Barriers to Trade (TBT): Art. 5, 6, 8, 2 GATT 1994: Art. I, III</p>	<p>The United States seeks review by the Appellate Body relating to the Panel's findings and legal conclusion that the U.S. dolphin safe labeling provisions constitute technical regulations within the meaning of the Agreement on Technical Barriers to Trade. This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations of the TBT Agreement, including:</p> <p>(a) the Panel's interpretation and application of the term "with which compliance is mandatory" in the definition of a technical regulation in Annex 1.1 of the TBT Agreement; and</p> <p>(b) the Panel's finding that U.S. dolphin safe labeling provisions are mandatory within the meaning of Annex 1.1 of the TBT Agreement.</p>	<p>On 20 January 2012, the United States notified the Dispute Settlement Body of its decision to appeal the panel report in dispute case DS381, "United States — Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products".</p> <p>On 25 January</p>

		<p>As a result of the foregoing errors, the United States requests the Appellate Body also to reverse the Panel's legal conclusion in paragraph 8.1(b) of the Panel Report and its recommendation in paragraph 8.3 of the Panel Report.</p> <p>If the Appellate Body were to reject the U.S. appeal set out in paragraph 1, then the United States requests the Appellate Body find that the Panel failed to make an objective assessment of the matter before it as called for by Article 11 of the DSU by concluding that the U.S. measures may only partially ensure that consumers are informed about whether tuna was caught by using a method that adversely affects dolphins.<sup>4</sup> The Panel drew this conclusion based on factual findings that were without a sufficient evidentiary basis, without assessing the totality of the evidence, and without adequate explanation, including:</p> <p>(a) the Panel's conclusion that Mexico has demonstrated that the use of fishing techniques other than setting on dolphins outside of the Eastern Tropical Pacific ("ETP") may produce and has produced significant levels of dolphin by-catch;</p> <p>(b) the Panel's finding that the U.S. provisions do not allow the consumer to accurately distinguish between tuna caught in a manner that adversely affects dolphins and other tuna;</p> <p>(c) that the threats faced by dolphins outside the ETP are not demonstrated to be lower than similar threats faced by dolphins in the ETP;</p> <p>(d) that the differences with respect to the depletion status of the dolphin stocks at issue inside and outside of the ETP are not</p>	<p>2012, Mexico notified the Dispute Settlement Body of its decision to cross-appeal the panel report in DS381, "United States — Measures Concerning the Importation, Marketing And Sale of Tuna And Tuna Products". The United States had earlier appealed the report on 20 January 2012.</p>
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			<p>sufficient to justify the differences in certification requirements under the U.S. provisions; and</p> <p>(e) that the requirements applicable in different fisheries under the U.S. provisions are not calibrated to the likelihood of dolphins being killed or seriously injured.</p> <p>As a result of the foregoing errors, the United States also requests the Appellate Body to reverse the Panel's legal conclusion in paragraph 8.1(b) of the Panel Report and its recommendation in paragraph 8.3 of the Panel Report.</p> <p>If the Appellate Body were to reject the U.S. appeal set out in paragraph 1, then the United States requests the Appellate Body find that the Panel failed to make an objective assessment of the matter before it as called for by Article 11 of the DSU by concluding that the U.S. measures may only partially fulfill their stated objective of contributing to the protection of dolphins by ensuring that the U.S. market is not used to encourage fishing fleets to catch tuna in a matter that adversely affects dolphins. The Panel drew this conclusion based on factual findings that were without a sufficient evidentiary basis, without assessing the totality of the evidence, and without adequate explanation, including:</p> <p>(a) the Panel's conclusions and findings as set forth in paragraphs 2(a)-(e) above; and</p> <p>(b) that the U.S. provisions do not calibrate the dolphin safe certification requirements to the likelihood of interaction and harmful effects to dolphins.</p> <p>As a result of the foregoing errors, the United States also requests the Appellate</p>	
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			<p>Body to reverse the Panel's legal conclusion in paragraph 8.1(b) of the Panel Report and its recommendation in paragraph 8.3 of the Panel Report.</p> <p>4. If the Appellate Body were to reject the U.S. appeal set out in paragraph 1, then the United States seeks review by the Appellate Body of the Panel's legal conclusion Mexico identified a reasonably available, less trade-restrictive alternative that would achieve a level of protection equivalent to that achieved by the U.S. provisions. This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations of the TBT Agreement, including:</p> <p>(a) the conclusion that the extent to which consumer would be misled or deceived would be no greater under the proposed alternative than under the U.S. measures;</p> <p>(b) that the proposed alternative would not create greater risks to dolphins in the ETP than the U.S. provisions, and would fulfill the U.S. objectives at a level equivalent to the U.S. provisions;</p> <p>(c) that significant dolphin mortality arises outside of the ETP from fishing techniques other than setting on dolphins;</p> <p>(d) that the U.S. provisions do not address adverse impacts from fishing techniques other than setting on dolphins outside the ETP; and</p> <p>(e) that at least some of the dolphin populations affected by fishing techniques other than setting on dolphins are facing risks at least equivalent to those currently faced by dolphin populations in the ETP under Agreement on International Dolphin</p>	
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			<p>Conservation Program ("AIDCP") monitoring.</p> <p>As a result of the foregoing errors, the United States also requests the Appellate Body to reverse the Panel's legal conclusion in paragraph 8.1(b) of the Panel Report and its recommendation in paragraph 8.3 of the Panel Report.</p> <p>If the Appellate Body were to reject the U.S. appeal set out in paragraph 1, then the United States seeks review by the Appellate Body of the Panel's legal conclusion that U.S. dolphin safe labeling provisions are more trade-restrictive than necessary to fulfill their legitimate objectives, taking account of the risks non-fulfilment would create. This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations of the TBT Agreement, including:</p> <p>(a) the Panel's conclusions as set forth in paragraph 4; and</p> <p>(b) that the proposed alternative would be less trade-restrictive than the U.S. provisions, in that it would allow greater competitive opportunities on the U.S. market to products with access to the AIDCP label.</p> <p>As a result of the foregoing errors, the United States also requests the Appellate Body to reverse the Panel's legal conclusion in paragraph 8.1(b) of the Panel Report and its recommendation in paragraph 8.3 of the Panel Report.</p> <p>If the Appellate Body were to reject the U.S. appeal set out in paragraph 1, then the United States requests the Appellate Body find that the Panel failed to make an</p>	
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			<p>objective assessment of the matter before it as called for by Article 11 of the DSU by concluding that Mexico had identified an alternative that is less trade restrictive than the U.S. provisions. The Panel drew this conclusion based on factual findings that were without a sufficient evidentiary basis, without assessing the totality of the evidence, and without adequate explanation, including that the proposed alternative would allow greater competitive opportunities on the U.S. market to products with access to the AIDCP label. As a result of the foregoing errors, the United States also requests the Appellate Body to reverse the Panel's legal conclusion in paragraph 8.1(b) of the Panel Report and its recommendation in paragraph 8.3 of the Panel Report.</p> <p>If the Appellate Body were to reject the U.S. appeal set out in paragraph 1, then the United States seeks review by the Appellate Body of the Panel's finding that the AIDCP dolphin safe definition and certification constitute a "relevant international standard" within the meaning of Article 2.4 of the TBT Agreement. This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations of the TBT Agreement, including the Panel's finding that the AIDCP is an international standardizing organization for the purpose of Article 2.4 of the TBT Agreement. The United States requests the Appellate Body find that the Panel failed to make an objective assessment of the matter before it as called for by Article 11 of the DSU by concluding that there are "institutional links" between the AIDCP and the Inter-American Tropical Tuna Commission.</p>	
Indonesia	United	Sanitary	The United States seeks review of the	On 5 January

	States	<p>and Phytosanitary Measures (SPS): Art. 3, 5, 7, 2 Technical Barriers to Trade (TBT): Art. 2, 12, 2.1, 2.2, 2.3, 2.5, 2.8, 2.9, 2.10, 2.12 GATT 1994: Art. XXIII:1(a), III:4, XX</p>	<p>Panel's finding that clove cigarettes and menthol cigarettes are like products. In making this erroneous finding, the Panel erred in its legal interpretation of Article 2.1 by excluding, a priori, evidence related to particular criteria and failing to analyze each criteria completely. Specifically the Panel erred by failing to perform a complete analysis of the end-uses of clove cigarettes and menthol cigarettes and failing to perform a complete analysis of consumer tastes and habits. In developing this faulty legal interpretation, the Panel also acted inconsistently with Article 11 of the DSU by failing to make an objective assessment of the facts in the case by refusing to consider certain evidence related consumer tastes and habits.</p> <p>The United States also seeks review of the Panel's finding that Section 907(a)(1)(A) accords less favorable treatment to imported clove cigarettes. In making this finding, the Panel erred in its legal interpretations that the only products to be compared are imported clove cigarettes and domestic menthol cigarettes, and that the effect of Section 907(a)(1)(A) on U.S. production can be assessed by looking only at what products were on the market at the time the measure went into effect. The Panel also erred by applying an incorrect legal framework to assess whether the alleged detriment to the competitive conditions for clove cigarettes could be explained by factors or circumstances unrelated to the foreign origin of the products.<sup>11</sup> In developing these faulty legal interpretations, the Panel also acted inconsistently with Article 11 of the DSU by failing to make an objective assessment of the facts of the case in finding that at the time of the ban, there were no domestic cigarettes with characterizing flavors other</p>	<p>2012, the United States notified the Dispute Settlement Body of its decision to appeal the panel report in dispute case DS406, "United States — Measures Affecting the Production and Sale of Clove Cigarettes".</p>
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			<p>than menthol cigarettes, and that Section 907(a)(1)(A) imposes no costs on any U.S. entity.</p> <p>The United States seeks review by the Appellate Body of the Panel's conclusion and related findings that by not allowing an interval of no less than six months between the publication and the entry into force of Section 907(a)(1)(A), the United States acted inconsistently with Article 2.12 of the TBT Agreement. This conclusion is in error and is based on erroneous findings on issues of law and legal interpretations with respect to Article 2.12 of the TBT Agreement.</p> <p>Finally, the United States also makes a conditional appeal regarding the Panel's legal analysis with respect to Indonesia's claims under Article 2.2 of the TBT Agreement. Should Indonesia seek review by the Appellate Body of the Panel's findings with respect to Indonesia's claims under Article 2.2, the United States seeks review by the Appellate Body of the Panel's finding that it could draw upon jurisprudence developed under Article XX(b) of the General Agreement on Tariffs and Trade 1994 when assessing the consistency of Section 907(a)(1)(A) with the requirement that technical regulations "not be more trade-restrictive than necessary to fulfill a legitimate objective ...". While the United States agrees with the ultimate conclusion in the Panel Report regarding Indonesia's claims under Article 2.2 of the TBT Agreement, the United States considers the Panel's analysis on this particular aspect to be based on erroneous findings on issues of law and related legal interpretations with respect to Article 2.2 of the TBT Agreement.</p>	
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## Reports by the Appellate Body

Complainant	Respondent	Provisions involved	Disputed Matter	Current Status
EU	US	Article 1.1; 2.1; 5 and 6 of SCM Agreement	<p>As an initial matter, the Appellate Body found that the Panel had erred in denying various requests made by the European Communities with respect to the information-gathering procedure under Annex V of the SCM Agreement. The Appellate Body found that the initiation of an Annex V procedure occurs automatically when there is a request for initiation of such a procedure and the DSB establishes a panel. However, the Appellate Body declined to make findings as to whether the conditions for an initiation of an Annex V procedure were fulfilled in this dispute.</p> <p>As regards the measures under the eight NASA R&amp;D programmes at issue and the 23 USDOD Research, Development, Test, and Evaluation (“RDT&amp;E”) programmes at issue, the Appellate Body found that the payments and access to facilities, equipment and employees provided to Boeing under the NASA procurement contracts, and the payments and access to facilities provided to Boeing under the USDOD assistance instruments, constitute financial contributions within the meaning of Article 1.1(a)(1) of the SCM Agreement. Because the Appellate Body took a different approach to the Panel's, it did not need to resolve the issue of whether measures properly characterized as purchases of services are excluded from the scope of Article 1.1(1)(i) of the SCM Agreement. Consequently, the Appellate Body declared the Panel's interpretation that such measures are excluded from the scope of Article 1.1(a)(1)(i) of the SCM Agreement to be moot and of no legal effect. The Appellate Body also declared moot the Panel's finding that the USDOD procurement contracts are properly characterized as purchases of services and thus are not financial contributions under Article 1.1(a)(1). However, as neither participant had requested it to do so, the Appellate Body did not complete the analysis regarding</p>	The Appellate Body, on 12 March 2012, issued its report in the case “United States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint)” (WT/DS353/A B/R).

		<p>the USDOD procurement contracts at issue in this dispute. The United States did not appeal the Panel's finding that the access to facilities, equipment and employees provided to Boeing under the NASA Space Act Agreements constitute a financial contribution under Article 1.1(a)(1).</p> <p>Moreover, the Appellate Body upheld, albeit for different reasons, the Panel's findings that the payments and access to facilities, equipment, and employees provided under the NASA procurement contracts, and payments and access to facilities provided under the USDOD assistance instruments, conferred a benefit on Boeing within the meaning of Article 1.1(b) of the SCM Agreement. The Appellate Body did not review the Panel's finding that the access to facilities, equipment and employees provided to Boeing under the NASA Space Act Agreements conferred a benefit.</p> <p>The Appellate Body found that the allocation of patent rights under contracts and agreements between NASA/USDOD and Boeing — on the assumption that such allocation is a self-standing subsidy — is not explicitly limited to certain enterprises within the meaning of Article 2.1(a). However, it found that the Panel erred by failing to examine the European Communities' arguments that such allocation is “in fact” specific under Article 2.1(c) of the SCM Agreement. The Appellate Body thus found that the Panel's overall finding under Article 2.1 could not be sustained, but declined to find that such allocation is specific within the meaning of Article 2.1(c) of the SCM Agreement.</p> <p>In relation to the Washington State B&amp;O tax rate reduction, the Appellate Body upheld the Panel's finding that the reduction in the Washington State B&amp;O tax rate applicable to commercial aircraft and component manufacturers constitutes the foregoing of revenue otherwise due, and therefore a financial contribution within the meaning of Article 1.1(a)(1)(ii) of the SCM Agreement. The Appellate Body also upheld the Panel's finding that the Washington State B&amp;O tax rate reduction is a subsidy that is specific within the meaning</p>	
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		<p>of Article 2.1(a) of the SCM Agreement.</p> <p>As for the subsidies provided by the City of Wichita (Kansas) through the issuance of Industrial Revenue Bonds ("IRB"), the Appellate Body upheld, albeit for different reasons, the Panel's finding that the IRB subsidies provided to Boeing and Spirit are specific within the meaning of Article 2.1(c) of the SCM Agreement.</p> <p>With respect to the Panel's analysis of adverse effects, the Appellate Body observed that the Panel had conducted a separate analysis of adverse effects caused by the NASA/USDOD aeronautics R&amp;D subsidies in the 200-300 seat LCA market (through their "technology effects"), and an analysis of the adverse effects caused by all the subsidies in the 100-200 seat and 300-400 seat LCA market (through their "price effects"). As regards to the analysis of the "technology effects", the Appellate Body upheld the Panel's overall conclusion that the aeronautics R&amp;D subsidies caused serious prejudice to the interests of the European Communities within the meaning of Articles 5(c) and 6.3(b) and (c) of the SCM Agreement with respect to the 200-300 seat LCA market. Specifically, the Appellate Body upheld the Panel's finding of significant lost sales and significant price suppression in the 200-300 seat LCA market, but reversed the Panel's finding of a threat of displacement and impedance with respect to the 200-300 seat LCA market as it relates to Kenya, Iceland, and Ethiopia (but not with respect to Australia) within the meaning of Article 6.3(b) of the SCM Agreement.</p> <p>As for the Panel's analysis of price effects, the Appellate Body reversed the Panel's findings that the FSC/ETI subsidies and the B&amp;O tax rate reductions caused serious prejudice to the interests of the European Communities within the meaning of Articles 5(c) and 6.3(b) and (c) of the SCM Agreement with respect to the 100-200 seat and 300-400 seat LCA markets. In completing the analysis, the Appellate Body found that the FSC/ETI subsidies and the Washington State B&amp;O tax rate reduction caused, through their effects on Boeing's prices, serious prejudice in the form</p>	
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			<p>of significant lost sales within the meaning of Articles 5(c) and 6.3(c) of the SCM Agreement with respect to the 100-200 seat LCA market.</p> <p>Moreover, the Appellate Body: (i) found that the Panel erred in failing to consider whether the price effects of the B&amp;O tax rate reductions complement and supplement the technology effects of the aeronautics R&amp;D subsidies in causing significant lost sales and significant price suppression, and a threat of displacement and impedance, in the 200-300 seat LCA market; (ii) reversed the Panel's finding that the remaining subsidies had not been shown to have affected Boeing's prices in a manner giving rise to serious prejudice with respect to the 100-200 seat and 300-400 seat LCA markets; and (iii) in completing the analysis, found that the effects of the City of Wichita IRBs complemented and supplemented the price effects of the FSC/ETI subsidies and the State of Washington B&amp;O tax rate reduction, thereby causing serious prejudice, in the form of significant lost sales, within the meaning of Articles 5(c) and 6.3(c) of the SCM Agreement, in the 100-200 seat LCA market.</p>	
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#### Adoption of Reports by DSB

Complainant	Respondent	Provisions involved	Disputed Matter	Current Status
EU	US		<p>The EU said it had demonstrated that certain measures by US federal state and local governments provide subsidies to Boeing that are inconsistent with the US obligations under WTO rules. According to the EU, over the last decades, Boeing had benefitted from billions of dollars worth of aeronautics research and development, subsidies from the NASA and the US Department of Defence. The EU said that Boeing had also benefitted from federal tax breaks under the Foreign Sales Corporation and Extraterritorial Income Exclusion legislation. The EU added that Boeing was granted a large number of state and local subsidies in Washington State, Kansas and Illinois. The EU expected that, in light of the long history of WTO inconsistent adverse effects that the US federal state and</p>	<p>The DSB adopted the panel and Appellate Body reports (WT/DS353/R and WT/DS353/A B/R) on the US subsidies to its civil aircraft industry. The panel and Appellate Body</p>

		<p>local subsidies have created, the US would move quickly to comply with its obligations and withdraw the subsidies or remove their adverse effects within the six-month period provided by the WTO Subsidies and Countervailing Agreement (article 7.9). The EU remained ready to work with the US to achieve that end.</p> <p>The US said that the Boeing dispute came about because seven years ago, the US sought to challenge launch aid, the form of financing whereby the EU member states pay for the development of Airbus aircraft, and airbus does not have to repay if the aircraft proves unsuccessful. According to the US, these subsidies were responsible for every single airbus aircraft ever produced and caused massive adverse effects to US trade. The US said that in response to this dispute, the EU argued that US subsidies were bigger and more distortive of trade. The US said that the panel and Appellate Body reports had vindicated its position. The US added that the reports rejected most of the EU claims of adverse effects.</p> <p>The US also referred to a procedural issue in relation to article 17.5 of the Dispute Settlement Understanding (DSU) and added that the Appellate Body should provide members the same degree of transparency on the circumstances under which a report is presented for adoption outside the 90-day period, as the Appellate Body formerly provided to members prior to 2011. Japan supported the US comments on this issue.</p>	<p>reports were respectively released on 31 March 2011 and 12 March 2012.</p>
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### Implementation measures

Complainant	Respondent	Provisions involved	Disputed Matter
United States	EU	DSU Article 21.5	On 30 March 2012, the US submitted a panel request under to review the EU implementation measures in the Airbus case (WT/DS316/23). The United States considers that the EU and certain member States did not withdraw the subsidies or remove their adverse effects for purposes of Article 7.8 of the SCM Agreement, and the EU and certain member States have failed to implement

			<p>the DSB's recommendations and rulings. The United States therefore requests that the DSB refer this matter to the original panel, if possible, as set out in Article 21.5 of the DSU</p>
Japan	US	Anti-dumping procedure	<p>The US submitted its status report (WT/DS322/36/ADD.29) on the implementation of the DSB recommendations. The US informed WTO members that it had signed a Memorandum of Understanding (MOU) with Japan to resolve this dispute (WT/DS322/44).</p> <p>The US recalled that in December 2010, its Department of Commerce announced a proposal to implement the DSB rulings regarding zeroing by changing the calculation of weighted average dumping margins and assessment rates in certain anti-dumping proceedings. The US informed the DSB that its Department of Commerce had finalised the proposal and published a final modification on 14 February 2012. The US said that the final modification would apply to all reviews initiated after publication as well as on-going ones for which the preliminary determination was issued 60 days or more after publication.</p> <p>The US added that the MOU provided that the US would take actions to meet Japan's concerns, including by revising its calculation methodologies and that Japan would withdraw its retaliation request (WT/DS322/23 and WT/DS322/24) by 6 August 2012. The US said that in response to a joint request of the parties, the arbitrator had continued the suspension of its work on Japan's retaliation request, up to 20 August 2012. The US emphasized that it would continue to press in on-going WTO negotiations for affirmation that zeroing was consistent with WTO rules.</p> <p>Japan said that the MOU concluded with the US set forth parameters and a timeframe that must be fulfilled, and included a number of steps the US must take to achieve a mutually agreed solution to this dispute. Japan expected that all steps of action in the MOU would be fulfilled and executed by the US. Japan would continue to monitor any developments closely to this end and reserved its right to</p>

			<p>initiate a compliance proceeding (Article 21.5 of the Dispute Settlement Understanding (DSU)) with respect to the final modification adopted by the US. Japan recalled that seven years had passed since this dispute was initiated on 24 November 2004.</p>
EU	US	Anti-dumping procedure	<p>The US submitted its status reports (WT/DS350/18/ADD.26 and WT/294/38/ADD.20) on the implementation of the DSB recommendations and informed the DSB that it had signed a Memorandum with the European Commission on both on-going disputes DS350 and DS294 (WT/350/20 and WT/DS294/43). The US mentioned the final modification changing the calculation of weighted average dumping margins and assessment rates in certain anti-dumping proceedings and referred to its statement in the item above (DS322).</p> <p>The US said that the Memorandum provided that the US would take actions to address the EU's concerns by revising its calculation methodologies and that the EU would withdraw its retaliation request in dispute DS294 (WT/DS294/35) and would take no further actions in relation to the disputes DS350 and DS294. The US added that in response to a joint request of the parties, the arbitrator had continued the suspension of its work, on the EU's retaliation request in DS294, up to 28 June 2012.</p> <p>The EU said that the roadmap agreed with the US set out the steps the US would take to ensure full compliance. The EU said that the US committed to conduct reviews of certain anti-dumping orders that would not be covered by the new methodology and expected those reviews to be completed by mid-June 2012 and zeroing to be removed from all dumping margin calculations. The EU hoped and expected that the satisfactory completion of all steps under the roadmap would effectively bring the zeroing disputes to an end.</p>

## TRADE REMEDIES

### Anti-dumping and Countervailing Duty Measures

Concerned country	Matter involved	Status of proceedings
India, Vietnam, Oman and UAE	<p>On March 27, 2012, the Department of Commerce announced its affirmative preliminary determinations in the countervailing duty (CVD) investigations of imports of circular welded carbon-quality steel pipe (certain steel pipe) from India and the Socialist Republic of Vietnam (Vietnam), and its negative preliminary determinations in the CVD investigations of imports of certain steel pipe from the Sultanate of Oman (Oman) and the United Arab Emirates (UAE).</p>	<p>Commerce preliminarily determined that Indian and Vietnamese producers/exporters have received countervailable subsidies of 285.95 percent, and 0.04 to 8.06 percent, respectively.</p> <p>In the India investigation, mandatory respondents Zenith Birla (India) Ltd. and Lloyds Metals and Engineers Ltd. both received preliminary net subsidy rates of 285.95 percent, based on the application of adverse facts available. All other Indian producers/exporters also received a preliminary net subsidy rate of 285.95 percent.</p> <p>In the Oman investigation, mandatory respondent Al Jazeera Tube Mills Company SAOG received a preliminary net subsidy rate of 0.12 percent, which is <i>de minimis</i>. This results in a preliminary negative determination for Oman.</p> <p>In the UAE investigation, Commerce found that mandatory respondents Universal Tube and Plastic Industries, Ltd. and Abu Dhabi Metal Pipes and Profiles Industries Complex LLC did not benefit from countervailable subsidies. This results in a preliminary negative determination for the UAE.</p> <p>As a result of the preliminary affirmative determinations for India and Vietnam, Commerce will</p>

		<p>instruct U.S. Customs and Border Protection (CBP) to collect a cash deposit or bond based on these preliminary rates. Because of the negative preliminary determinations, no cash deposit or bond will be required for imports from Oman and the UAE.</p> <p>The final determination is scheduled for August 2012.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-india-oman-uae-vietnam-steel-pipe-cvd-prelim-20120327.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-india-oman-uae-vietnam-steel-pipe-cvd-prelim-20120327.pdf</a></p>
Mexico and China	<p>On March 20, 2012, the Department of Commerce announced its affirmative final determinations in the countervailing (CVD) and antidumping duty (AD) investigations of imports of galvanized steel wire (galvanized wire) from the People's Republic of China (China) (AD and CVD) and Mexico (AD).</p> <p>The scope of these investigations covers galvanized steel wire which is a cold-drawn carbon quality steel product in coils, of circular or approximately circular, solid cross section with any actual diameter of 0.5842 mm (0.0230 inch) or more, plated or coated with zinc (whether by hot-dipping or electroplating).</p>	<p>The ITC is currently scheduled to issue its final injury determination on or before May 3, 2012.</p> <p>If the ITC makes affirmative final determinations that imports of galvanized wire from China and/or Mexico materially injure, or threaten material injury to, the domestic industry, Commerce will issue CVD and AD orders.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-mexico-steel-wire-ad-final-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-mexico-steel-wire-ad-final-20120320.pdf</a></p>
China and Taiwan	<p>On March 20, 2012, the Department of Commerce (Commerce) announced its affirmative final determinations in the antidumping duty (AD) investigations of imports of certain stilbenic optical brightening agents (brightening agents) from the People's Republic of China (China) and Taiwan</p> <p>The merchandise covered by these investigations are all forms (whether free acid or salt) of compounds known as</p>	<p>The U.S. International Trade Commission (ITC) is currently scheduled to issue its final injury determination on or before May 3, 2012.</p> <p>If the ITC makes affirmative final determinations that imports of brightening agents from China and/or Taiwan materially injure, or threaten material injury to, the</p>

	<p>triazinylaminostilbenes (<i>i.e.</i>, all derivatives of 4,4'-bis [1,3,5- triazin-2-yl] amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The certain stilbenic optical brightening agents covered by these investigations include final optical brightening agent products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of final optical brightening agent products</p>	<p>domestic industry, Commerce will issue AD orders. If the ITC makes negative injury determinations, these investigations will be terminated.</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-taiwan-soba-adevd-final-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-taiwan-soba-adevd-final-20120320.pdf</a></p>
UAE	<p>On March 20, the Department of Commerce (Commerce) announced its affirmative final determination in the antidumping duty (AD) investigation of imports of certain steel nails (steel nails) from United Arab Emirates (UAE).</p> <p>Products covered by this investigation are certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot-dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Certain steel nails may be sold in bulk, or they may be</p>	<p>The U.S. International Trade Commission (ITC) is currently scheduled to issue its final injury determination on or before May 3, 2012.</p> <p>If the ITC makes an affirmative final determination that imports of steel nails from UAE materially injure, or threaten material injury to, the domestic industry, Commerce will issue an AD order. If the ITC makes a negative injury determination, this investigation will be terminated</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-uae-steel-nails-ad-final-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-uae-steel-nails-ad-final-20120320.pdf</a></p>

	collated into strips or coils using materials such as plastic, paper, or wire.	
China	<p>On March 19, 2012, the Department of Commerce (Commerce) announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of imports of certain steel wheels (steel wheels) from the People’s Republic of China (China).</p> <p>The products covered by these investigations are steel wheels with a wheel diameter of 18 to 24.5 inches. Rims and discs for such wheels are included, whether imported as an assembly or separately. These products are used with both tubed and tubeless tires. Steel wheels, whether or not attached to tires or axles, are included. However, if the steel wheels are imported as an assembly attached to tires or axles, the tire or axle is not covered by the scope. The scope includes steel wheels, discs, and rims of carbon and/or alloy composition and clad wheels, discs, and rims when carbon or alloy steel represents more than fifty percent of the product by weight. The scope includes wheels, rims, and discs, whether coated or uncoated, regardless of the type of coating</p>	<p>The ITC is currently scheduled to issue its final injury determinations on or before April 30, 2012.</p> <ul style="list-style-type: none"> <li>• If the ITC makes an affirmative final determination that imports of steel wheels from China materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD and CVD orders. If the ITC makes a negative injury determination, these investigations will be terminated.</li> </ul> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-steel-wheels-adcvd-final-20120319.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-steel-wheels-adcvd-final-20120319.pdf</a></p>

<p>S. Korea and Mexico</p>	<p>On March 19, 2012, the Department of Commerce (Commerce) announced its affirmative final determinations in the antidumping duty (AD) and countervailing duty (CVD) investigations of imports of bottom mount combination refrigerator-freezers (bottom mount refrigerators) from the Republic of Korea (Korea) (AD/CVD) and Mexico (AD).</p> <p>The products covered by these investigations are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea and Mexico</p>	<p>The ITC is currently scheduled to issue its final injury determinations on or before April 30, 2012.</p> <p>If the ITC makes affirmative final determinations that imports of bottom mount refrigerators from Korea and Mexico materially injure, or threaten material injury to, the domestic industry, Commerce will issue AD and CVD orders. If a CVD order is issued, LG Korea will be excluded from its requirements, based on its <i>de minimis</i> countervailable subsidy rate. Similarly, if an AD order is issued, Daewoo will be excluded from its requirements, based on its dumping margin of zero. If the ITC makes negative injury determinations, these investigations will be terminated</p> <p>Source-  <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-korea-mexico-bmcrf-ad-final-20120319.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-korea-mexico-bmcrf-ad-final-20120319.pdf</a></p>
<p>China</p>	<p>On March 22, 2012, the Department of Commerce (Commerce) announced the initiation of antidumping duty (AD) and countervailing duty (CVD) investigations of imports of drawn stainless steel sinks from the People's Republic of China (China).</p> <p>The products covered by these investigations are stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel ("Drawn Stainless Steel Sinks"). Mounting clips, fasteners, seals, and sound-deadening pads are also covered by the scope of these investigations if they are included within the sales price of the Drawn Stainless</p>	<p>The U.S. International Trade Commission (ITC) is scheduled to make its preliminary injury determination on or before April 16, 2012.</p> <p>If the ITC determines that there is a reasonable indication that imports from China materially injure, or threaten material injury to, the domestic industry, the investigations will continue, and Commerce will be scheduled to make its CVD and AD preliminary determinations in May and August 2012, respectively, unless the determinations are extended</p> <p>Source-</p>

	Steel Sinks	<a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-dsss-adcvd-init-20120322.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-dsss-adcvd-init-20120322.pdf</a>
Taiwan and Vietnam	<p>On January 18, 2012, the Department of Commerce (Commerce) initiated AD and CVD investigations of imports of steel wire garment hangers from Taiwan (AD) and Vietnam (AD/CVD).</p> <p>The merchandise subject to these investigations is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers</p>	<p>The U.S. International Trade Commission (ITC) is scheduled to make its preliminary injury determinations on or about February 13, 2012.</p> <p>If the ITC determines that there is a reasonable indication that imports from Taiwan and Vietnam are materially injuring, or threatening material injury to, the domestic industry, the investigations will continue, and Commerce will be scheduled to make its CVD and AD preliminary determinations in March and June 2012, respectively.</p> <p>Source- <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-vietnam-taiwan-swgh-adcvd-init-20120119.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-vietnam-taiwan-swgh-adcvd-init-20120119.pdf</a></p>
Vietnam	<p>On January 18, 2012, the Department of Commerce (Commerce) initiated AD and CVD investigations of imports of utility scale wind towers from China (AD/CVD) and Vietnam (AD).</p> <p>The merchandise covered by these investigations is utility scale wind towers which are the steel towers that support the nacelle (an enclosure for an engine) and rotor blades for use in wind turbines that have electrical power</p>	<p>The U.S. International Trade Commission (ITC) is scheduled to make its preliminary injury determinations on or about February 13, 2012.</p> <p>If the ITC determines that there is a reasonable indication that imports from China and Vietnam are materially injuring, or threatening material injury to, the domestic industry, the investigations will</p>

	generation capacities in excess of 100 kilowatts	continue, and Commerce will be scheduled to make its CVD and AD preliminary determinations in March and June 2012, respectively.  Source- <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-vietnam-uswt-advd-init-20120119.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-vietnam-uswt-advd-init-20120119.pdf</a>
S. Korea	<p>On February 10, 2012, the Department of Commerce (Commerce) announced its affirmative preliminary determination in the antidumping (AD) duty investigation of imports of large power transformers (LPTs) from the Republic of Korea (Korea).</p> <p>The scope of this investigation covers large liquid dielectric power transformers having a top power handling capacity greater than or equal to 60,000 kilovolt amperes (60 megavolt amperes), whether assembled or unassembled, complete or incomplete</p>	<p>Commerce is currently scheduled to make its final determination in July 2012.</p> <ul style="list-style-type: none"> <li>• If Commerce makes an affirmative final determination, and the U.S. International Trade Commission (ITC) makes an affirmative final determination that imports of LPTs from Korea materially injure, or threaten material injury to, the domestic industry, Commerce will issue an AD order. The ITC is scheduled to make its final injury determination on or about August 21, 2012. Source- <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-korea-lpt-ad-prelim-20120210.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-korea-lpt-ad-prelim-20120210.pdf</a></li> </ul>
China	<p>On March 20, 2012, the Department of Commerce (Commerce) announced its affirmative preliminary determination in the countervailing duty (CVD) investigation of imports of crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells) from the People's Republic of China (China).</p> <p>On March 20, 2012, Commerce also announced a clarification of the scope of the ongoing AD and CVD investigations, finding</p>	<p>Commerce is currently scheduled to make its final determination in June 2012.</p> <p>If Commerce makes an affirmative final determination, and the U.S. International Trade Commission (ITC) makes an affirmative final determination that imports of solar cells from China materially injure, or threaten material injury to, the domestic industry, Commerce will issue a CVD order. The ITC is scheduled to make its final injury</p>

	<p>that the scope covers not only imports of solar cells produced in China and solar modules/panels produced in China from Chinese-made solar cells, but also imports of solar modules/panels produced outside of China from solar cells produced in China. Commerce also found that the scope does not cover imports of modules/panels produced in China from solar cells produced in a third country. Changes in the scope are indicated in bold, below. As with all issues on the record, interested parties are welcome to comment on the scope clarification in their case briefs.</p> <p>The products covered by this investigation are crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels and building integrated materials.</p>	<p>determination in July 19, 2012. Source- <a href="http://ia.ita.doc.gov/download/factsheets/factsheet-prc-solar-cells-adcvd-prelim-20120320.pdf">http://ia.ita.doc.gov/download/factsheets/factsheet-prc-solar-cells-adcvd-prelim-20120320.pdf</a></p>
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