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Authors: James J. Nedumpara & Vandana Gyanchandani

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ABBREVIATIONS

ACE	- Automated Commercial Environment
AD	- Anti-Dumping Agreement/Measure
AES	- Automated Export Systems
AMS	- Agricultural Marketing Service
APEC	- Asia-Pacific Economic Cooperation
ASEAN	- Association of Southeast Asian Nations
BFDA	- Burmese Freedom and Democracy Act
CBP	- Customs and Border Protection
CCIA:	- Computer and Communications Industry Association
CFR	- Code of Federal Regulations
CITES	- Convention on International Trade in Endangered Species of Wild Fauna and Flora
COOL	- Country of Origin Labeling
CPSC	- Consumer Product Safety Commission
C-TPAT	- Customs-Trade Partnership Against Terrorism
DHS	- Department of Homeland Security
DOC	- Department of Commerce of the United States
DSB	- Dispute Settlement Body
EEI	- Electronic Export Information
EU	- The European Union
Ex-Im- Bank:	- Export-Import Bank of the United States
FWS	- US Fish and Wildlife Service
FOMC	- Federal Open Market Committee
FTA	- Federal Trade Commission
FTR	- Foreign Trade Regulation
GDP	- Gross Domestic Product
ICE	- US Immigration and Customs Enforcement agency
ICT	- Information and Communication Technology
IFTA:	- United States-Israel Free Trade Area Implementation Act
ISA	-International Services Agreement
M&A	- Mergers and Acquisitions
MOFCOM	- Ministry of Commerce of the People's Republic of China
NEEC	- New Certified Companies Scheme
PTPA	- US-Peru Trade Promotion Agreement
QIZ	-Qualifying Industrial Zone
US	- The United States of America
USDA	- United States Department of Agriculture
USCIB	- US Council for International Business
USCTPA	- United States-Colombia Trade Promotion Agreement
USTR	- United States Trade Representative
UNESCO	- United Nations Educational, Scientific and Cultural Organization
SAT	- Mexico's Tax Administration Service
SIMA	- Steel Import Monitoring and Analysis
SNAP	- Supplemental Nutrition Assistance Program
TAA	- Trans-Atlantic Agreement
TIFA	- Trade and Investment Framework Agreement

TPP - Trans-Pacific Partnership Agreement
WTO - World Trade Organization

EXECUTIVE SUMMARY

GDP growth

The U.S. GDP grew by 2.5% during this quarter. It is a very slow increase in the growth as compared to 0.4% in the fourth quarter in 2011. However, the increase was a result of increase in inventory investment because of an upturn in manufacturing and a smaller decrease in wholesale trade.

Trade Policy Agenda 2013

President's Trade Policy Agenda for 2013 focuses on two aspects: Economic Growth and Jobs. Due to the austerity measures in the aftermath of the financial crisis of 2008, the job loss to the average American and the very slow growth of the economy has raised a very serious debate over the economic policy. To address such debate President Obama has underlined specific measures under the broad subject of economic growth and jobs that will help retain the confidence in the economy.

Immigration policy

The new immigration reform policy by the President is aimed at retaining talents from abroad by giving the right of citizenship to long-stayed immigrants through credible procedures and at the same time strengthening the immigration system to stop low skilled laborers from immigrating to the country.

Tax reform

President Obama has asked the Congress to enact a comprehensive tax reform with the following principles:

- » Lower tax rates [to ease the burden on average American]
- » Eliminate inefficient and unfair tax breaks [To make it difficult for rich Americans to buy-pass their tax obligations]
- » Should be able to cut the fiscal deficit
- » Increase the job and growth in the US
- » Observe the Buffet Rule [fair, not equal imposition of taxes] wherein families with an income more than \$1million should not pay a smaller share of their total income]

Trans-Pacific Partnership Agreement

The Trans-Pacific Partnership Agreement, 16th round of negotiations was held on 4-11 March 2013. The chief negotiators stated that they had achieved the goal for the round by putting the negotiations on an accelerated track towards the conclusion of a next-generation comprehensive agreement this year as envisioned by the President Obama and other leaders of the TPP countries.

Transatlantic US – EU Agreement

On 11 February 2013, the *Final Report on High Level Working Group on Jobs and Growth* was released. The working group in its report recommended a comprehensive US-EU trade agreement which should include investment liberalization and protection provisions based on the highest levels of liberalization and highest standards of protection that both sides have negotiated. The working group recommended that the goal of negotiations should be to enhance business opportunities through substantially improved access to government procurement opportunities at all levels of government on the basis of national treatment.

Parallel importation in the US

The recent US Supreme Court decision in *Kirtsaeng v. John Wiley & Sons* provided that the 'First Sale Doctrine' is applicable in the US, which was not clear before this decision. Under the US Copyright Law, the buyer of a good in the US is allowed to resell it under the 'First Sale Doctrine' which exhausts the copyright holder's right to control the distribution of the item after the sale has taken place. *Parallel Importation is an act of importing a legitimately produced copyrighted good into the US market that was meant for sale in a foreign market and is of critical importance for online sellers like eBay.*

Mandatory filing through the Automated Export System

The Bureau of Census imposed a mandatory requirement to file the shipper's export declaration information through the Automated Export System (AES) or AES Direct. It is mandatory for all shipments of used self-propelled vehicles and temporary exports. In addition to the adoption of new export reporting requirements and modifying the post-departure filing programs the Census Bureau is making remedial changes to the Foreign Trade Regulations [FTR] to improve clarity and to correct errors. The EEI [Electronic Export Information] is exempt from public disclosure unless the Secretary of Commerce determines that such exemption would be contrary to the national interest. In August 2003, the Census Bureau, in agreement with US Customs and Border Protection (CBP) placed a moratorium on accepting new applications for post-departure filing. The Census Bureau and CBP plans to continue the moratorium on accepting new applications pending the development of a program to collect advanced export information that will continue to facilitate trade and address national security concerns. The Census Bureau is modifying the existing post-departure filing program for current approved filers.

Renewable Energy

The USDA announced \$25 million to fund research and development of the next-generation renewable energy and high-value bio-based products from a variety of biomass sources.

AGENDA FOR THE NEXT REPORT

- » Discussion on the conclusion of infrastructure business development trade mission by the US Deputy Secretary of Commerce Rebecca Blank along with 20 chosen US companies to Sao Paulo, Brazil, Bogota, Colombia and Panama City from 12-18 May 2013. The trade mission inspired from President' National Export Initiative to create 2 million export-supported jobs in the US by the end of 2014.¹
- » An update on the US challenge against Indonesian import licensing procedures in the WTO.
- » An analysis of the Dairy Australia's [the industry association representative of Australian dairy farmers] allegations that the Cooperative Working Together (CWT) program of the US circumvents US' subsidy commitment under the WTO.²
- » The next report will provide a coverage of the US initiative in launching an International Services Agreement.
- » The developments concerning the EU imposition of AD duties on ethanol imports from the U.S.
- » The US' compliance with the WTO Appellate Body's decision on COOL requirements.

¹ DOC, Press Releases 'U.S. Deputy Secretary of Commerce Rebecca Blank Announces 20 Companies Joining Infrastructure Business Development Trade Mission to Brazil, Colombia and Panama', <http://www.commerce.gov/news/press-releases/2013/04/24/us-deputy-secretary-commerce-rebecca-blank-announces-20-companies-joi>

² Inside US Trade, Australian Dairy Group Mulls Options For Countering U.S. Dairy Program, April 25, 2013, <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-04/26/2013/australian-dairy-group-mulls-options-for-countering-us-dairy-program/menu-id-710.html>

I. ECONOMIC ENVIRONMENT

A. Quarterly update

The Gross Domestic Product of the US increased by 2.5% in the first quarter of 2013.³ This increase was largely on account of an upturn in manufacturing and a smaller decrease in wholesale trade.⁴ There was also an increase of farm inventory investment during the quarter.⁵ Consumer spending increased which reflected increase in spending for services mainly for household utilities and an increase in exports.⁶ The imports saw an upward trend in the first quarter due to an upward trend in nonpetroleum industrial supplies and materials.⁷

The business investment was slow during the first quarter due to a slowdown in equipment and software (mainly in information processing) and a downturn in structures.⁸ Real disposable personal income, which adjusts for inflation and taxes, fell 5.3% in the first quarter after a rise of 6.2% in the fourth quarter of 2012.⁹ This lower increase reflected a downturn in dividend payments after companies accelerated payments to the fourth quarter and saw acceleration in the contribution for social insurance, which are subtracted when calculating personal income due to the expiration of the “payroll tax holiday”¹⁰.¹¹

The personal saving rate (saving rate as a percent of disposable personal income) was 2.6% in the first quarter as compared to 4.7% in the fourth quarter of 2012.¹² The prices of goods and services purchased by the Americans lowered in the first quarter, increasing 1.1% after increasing 1.6% in the fourth quarter of 2012. Energy prices fell and food prices slowed slightly.¹³

ECONOMIC FIGURES Q1 2013

Current-Dollar GDP

Current-dollar GDP [the market value of the nation’s output of goods and services] increased 3.7% [\$146.1 billion] in the first quarter of 2013 as compared to 1.3% [\$53.1 billion] in the fourth quarter of 2012.

Gross Domestic Purchases

Real Gross Domestic Purchases increased 2.9% in the first quarter of 2013.

Government Spending

³ Bureau of Economic Analysis, US Department of Commerce, *GDP GROWTH PICKS UP IN THE FIRST QUARTER: Advance Estimate of GDP*, Friday April 26, 2013, <http://www.bea.gov/newsreleases/national/gdp/gdphighlights.pdf>

⁴ BEA, *GDP GROWTH PICKS UP IN THE FIRST QUARTER: Advance Estimate of GDP*, <http://www.bea.gov/newsreleases/national/gdp/gdphighlights.pdf>

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ In the U.S., the temporary reduction of payroll taxes extended to all working taxpayers under the Tax Relief Act of 2010. The reduction of 2% applies to employee payroll tax contributions made in 2011. Employer contributions are not reduced. A taxpayer who earns \$50,000 will realize a savings of \$1,000 (2% of \$50,000). See <http://www.businessdictionary.com/definition/payroll-tax-holiday.html#ixzz2TPCND7Rs>

¹¹ Id.

¹² Id.

¹³ Id.

The government spending fell at an annual rate of 8.4% after a decrease of 14.8% in the fourth quarter of 2012 as the cuts were driven by a sharp decline in the military spending.

Unemployment rate

Unemployment grew 7.9% in January 2013 and dropped in the month of February 2013 to 7.7% and 7.6% in the month of March 2013.

West Texas Intermediate Crude Oil

The price of West Texas Intermediate Crude Oil increased from 94.74/barrel to 95.3 \$/barrel and decreased to 93.1 \$/barrel.

US Trade Balance

The US Trade Balance decreased from -38.1% to -44.5% from January to February and finally increased to -43.0% in the month of March 2013. The US Trade Balance in Goods increased from -56.1% to -51.7% in the month of January to February and further increased to -50.2% in the month of March.

Interest Rates

The 3-month T-bill increased from 0.7% to 0.10% from January to February 2013 and decreased to 0.9% in the month of March 2013. 10-year T-note interest rate increased from 1.91% to 1.98% from January to February and finally decreased to 1.96% in the month of March 2013. Baa rate increased from 4.73% to 4.85% from the month of January to February and further stated at 4.85% in the month of March 2013. The 30-year fixed Mortgage rate increased from 3.41% to 3.53% from the month of January to February and further increased to 3.57% in the month of March.

Personal Income

Current-dollar personal income decreased \$109.1 billion (3.2%) in the first quarter in contrast with an increase of \$262.3 billion (8.1%) in the fourth quarter of 2012. This decrease was due to a sharp downturn in personal dividend income and a sharp increase in contributions for government social insurance [as it is a subtraction in the calculation of personal income]. The acceleration in contributions for government social insurance in the first quarter was due to the expiration of the "payroll tax holiday".

Personal Current Taxes

Personal current taxes increased \$27.2 billion in the first quarter as compared with an increase of \$34.3 billion in the fourth quarter.

Disposable Personal Income

Disposable personal income decreased \$136.3 billion (4.4 percent) in the first quarter as compared to an increase of \$228 billion (7.9 percent) in the fourth quarter of 2012. Real disposable personal income decreased 5.3% in contrast with an increase of 6.2%.

Personal Expenditure

Personal expenditure increased \$116 billion (4.1%) in the first quarter as compared with an increase of \$97 billion (3.4%) in the fourth quarter of 2012. Personal saving- disposable personal income less personal expenditure was \$313 billion in the first quarter as compared with \$566 billion in the fourth quarter of 2012.

Personal Saving Rate

The personal saving rate [personal saving as a percentage of disposable personal income] grew at a low rate of 2.6% as compared with 4.7 percent in the fourth quarter of 2012.

Source: Bureau of Economic Analysis

USDA Budget 2013

The discretionary budget of USDA to fund programs and operating expenses is about \$24 billion, which is roughly the same level as provided in 2012. This is offset by \$1 billion of the proposed limits on selected mandatory programs and other adjustments. The funding for mandatory programs is projected to increase in 2013 by approximately \$8 billion due primarily to a one-time shift in the timing of certain crop insurance costs mandated by the 2008 Farm Bill. The rising employment and household income in 2013 are

projected to reduce the need for nutrition assistance through the Supplemental Nutrition Assistance Program (SNAP) and lead to fewer program participants, even as SNAP serves a larger share of those eligible.¹⁴

B. Federal Reserve: Goals and Expectations

Statement on Longer-Run Goals and Monetary Policy Strategy

The Federal Open Market Committee (FOMC) asserted to be firmly committed to fulfilling its statutory mandate from the Congress of promoting maximum employment, stable prices and moderate long-term interest rates. The inflation rate over the longer run is primarily determined by monetary policy and the Committee has the ability to specify a longer-run goal for inflation.¹⁵ The Committee provided that inflation rate of 2%, as measured by the annual change in the price index for personal consumption expenditures, is most consistent over the longer run with the Federal Reserve's statutory mandate.¹⁶ The communication of this inflation rate by the Federal Reserve to the public will keep longer-term inflation expectations firmly anchored.¹⁷

The maximum level of employment is determined by non-monetary factors, which affects the structure and dynamics of the labor market.¹⁸ These factors may change over time and may not be directly measurable. Therefore, the Committee said that it would not be appropriate to specify a fixed goal for employment rather the Committee's policy decisions must be informed by assessments of the maximum level of employment, recognizing that such assessments are necessarily uncertain and are subject to revision.¹⁹

While setting the monetary policy, the Committee sought to mitigate deviations of inflation from its longer-run goal and deviations of employment from the Committee's assessments of its maximum level.²⁰ These objectives are generally complementary. Under the circumstances in which the Committee judges that the objectives are not complementary, it follows a balanced approach in promoting them, taking into account the magnitude of the deviations and the potentially different time horizons over which the employment and inflation are projected to return to levels judged consistent with its mandate.²¹

C. Obama's Trade Policy Agenda for 2013

The Office of US Trade Representative (USTR) published 2013 Trade Policy Agenda and 2012 Annual Report of the President on the Trade Agreements Program. The Agenda and Report were submitted to the Congress pursuant to Section 163 of the Trade Act 1974 (as amended (19 U.S.C. 2213)). The report includes an annex listing trade agreements entered into by the US since 1984, trade data for 2012 and services data by country through 2011.

The Trade Policy Agenda for 2013 provides two general goals of the US for 2013:

1. Economic Growth
2. Jobs

¹⁴ USDA, FY2013, Budget Summary and Annual Performance Plan, USDA, <http://www.obpa.usda.gov/budsum/FY13budsum.pdf>

¹⁵ FOMC Statement on Longer-Run Goals and Monetary Policy Strategy: As amended effective on January 29, 2013,

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

Specific goals of the trade policy of the US in 2013 includes:

1. Ensuring the progress of President Obama's National Export Initiative.
2. Expanding the scope of the Trans-Pacific Partnership (TPP) negotiations.
3. Launching the Transatlantic Trade and Investment Partnership with the EU.
4. Leading creative and effective efforts to open the markets, enforce rules and combat protectionism through the WTO.
5. Supporting job creation through increased focus on services, manufacturing and agricultural sectors.
6. Expanding trade opportunities through Regional Economic Integration.
7. Promoting and protecting job-supporting innovation for producers and consumers alike.
8. Challenging WTO-inconsistent trade practices in markets worldwide.
9. Intensify WTO Committee work to increase accountability and build confidence among members.
10. Uphold the trade agreements' obligations.
11. Improving the trade and investment relationships with trade partners.
12. Fighting poverty and fostering global economic growth through trade.
13. Developing balanced trade policy informed by diverse perspectives.²²

The Obama Administration in its trade policy agenda asserted that the US should continue to use every possible policy tool or new tools as necessary to pursue the most efficient and productive pathways for trade liberalization in order to support greater economic growth and jobs.

D. New Laws and Regulations

(i) Trade Facilitation and Trade Enforcement Reauthorization Act, 2013

On 22 March 2013, Senate Finance Committee chairman Max Baucus and ranking member Orrin Hatch introduced this Bill. The Bill reauthorizes the existence of U.S. Customs and Border Protection Agency (CBP) and U.S. Immigration and Customs Enforcement agency (ICE) and makes trade facilitation and enforcement a top priority for every agency. Trade facilitation measures as provided in the Bill makes it important for the Commissioner to identify commercially significant and measurable trade benefits for participants in CBP partnership programs such as the Centers for Excellence and Expertise. It also provides for a creation of new Deputy Commissioner of Trade position and a Trade Advocate to work in the private sector. The Bill allocates funding for the Automated Commercial Environment (ACE) and International Trade Data System, which are technological advances designed to facilitate trade and communication. Measures for trade enforcement include tools to combat the evasion of antidumping and countervailing duties, establishment of the National Intellectual Property Rights Coordination Center to coordinate federal efforts to prevent intellectual property rights violations and import safety, etc.²³

(ii) No Budget, No Pay Act, 2013

The Bill was passed by the House on 23 January 2013 by a vote of 285-144. The bill exempts Treasury borrowing through 18 May 2013 from the debt limit. Section 2 of the Bill provides temporary suspension of

²² Baker & McKenzie, International Trade compliance update, <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=380>

²³ CrowellMoring, This month in International Trade – March, 'Bi-Partisan legislation to reauthorize and improve customs agencies introduced', <http://www.crowell.com/Practices/International-Trade/news/This-Month-in-International-Trade-March-2013#.UbUJo9JHIk4>

debt ceiling which suspends debt limit statute 31 U.S.C. 3101(b) until 19 May 2013. It exempts the debt limit for all borrowing which are necessary to fund government operations from the date of enactment through 18 May 2013. On 19 May 2013, the debt limit will be raised by the amount of new debt issued from the enactment of this bill through 18 May 2013. It provides that the borrowing will not be exempted from the debt limit unless such borrowing was required to fund an obligation that required payment before 19 May 2013. The bipartisan Policy Center has estimated that the bill shall eventually raise the debt limit by \$450 billion.

Section 3 of the bill provides for holding salaries of the members of Congress in Escrow upon failure to agree to Budget Resolution. It provides that each chamber shall agree to their own budget resolution for fiscal year 2014 by 15 April 2013 or else compensation for Members will be deposited into an escrow account and will not be paid to the Members until the day when the chamber in question passes a budget resolution or the last day of the 113th Congress. The bill does not require that both chambers agree to the same budget resolution.²⁴

(iii) Disaster Relief Appropriations Act, 2013

This legislation makes supplemental appropriations for FY2013 to specified federal agencies and programs for expenses related to the consequences of Hurricane Sandy. It limits the obligations for projects resulting from a single natural disaster or a single catastrophic failure in a state to \$100 million but authorizes the Secretary of Transportation to obligate up to \$500 million for a single natural disaster event in a state for emergency relief projects arising from damage caused in 2012.²⁵

(iv) Comprehensive reform of the Tax Reform Act, 1986

The President took immediate action within the weeks of office and in the midst of economic crisis to restore security for middle-class families by cutting their taxes in the Recovery Act. The President has continued to cut taxes for middle class families to make it easier for them to make ends meet. On 2 January 2013, President signed bipartisan legislation that will make sure income tax rates stay low permanently for 98% of Americans while asking the wealthiest households to pay a little more to help reduce the deficit.

The tax code has become complicated and unfair. Under the present tax laws, those people who can afford advice can avoid paying their fair share and interests with the most connected lobbyists to get exemptions and special treatment under the tax code. Many of the tax incentives serve important purposes; these tax expenditures taken together in law are inefficient, unfair, duplicative, or even unnecessary. Therefore, the President has asked the Congress to enact a comprehensive tax reform which meets the following principles:

- 1) *Lower tax rates:* The tax system should be simplified so as to make it applicable for all Americans. It should work for Americans with lower individual and corporate tax rates and fewer brackets.
- 2) *Eliminate inefficient and unfair tax breaks:* The reform should eliminate tax breaks which are inefficient, unfair or both so that the American people and businesses spend less time and less money annually to file tax and make it viable so that it does not avoid their responsibility by playing with the system.

²⁴ Senate Republican Policy Committee, 'Legislative Notice: H.R. 325 – No Budget, No Pay Act of 2013, http://www.rpc.senate.gov/legislative-notices/legislative-notice-hr-325_no-budget-no-pay-act-of-2013

²⁵ Congress.Gov, United States Legislative Information, H.R. 152 – Making supplemental appropriations for the fiscal year ending September 30, 2013, to improve and streamline disaster assistance for Hurricane Sandy, and for other purposes, <http://beta.congress.gov/bill/113th-congress/house-bill/152>

- 3) *Should cut the deficit:* It should cut deficit by \$1.5 trillion over the next decade through tax reform, including the expiration of tax cuts for single taxpayers making over \$200,000 and married couples making over \$250,000.
- 4) *Increase job creation and growth in the US:* It should make the US stronger both domestically and globally by increasing the incentive to work and invest in the US.
- 5) *It should observe the Buffet Rule:* The rule has been pointed out by the multi-billionaire Warren Buffet whose average tax rate is lower than his secretary. As per the rule, no household having an income of over \$1 million annually should pay a smaller share of their total income in taxes than middle-class families. This rule shall be achieved as part of overall reform that increases the fairness of the tax code.²⁶

(v)Comprehensive Immigration Reform

The president Obama gave a speech on the need for a comprehensive immigration reform and outlined a proposal for an economically and nationally sound immigration system for the US. The main concerns with respect to the immigration policy are as follows:

- 1) There are 11 million undocumented immigrants in the US from across the world for various reasons. These immigrants don't have legal recognition due to which they may be offered less than deserved status in the economy. He provided that it not only affects the fair competition in the economy but also threatens the jobs of the US work force. The enforcement mechanisms should be strengthened at borders and the administrations should crackdown on businesses that knowingly hire undocumented workers.
- 2) The economic reason for a comprehensive immigration reform is brain-drain. Those biggest and brightest of the immigrants who could make use of the resources in the US to the best advantage of the economy should be retained by means of immigration assistance. There should be a pathway for citizenship.
- 3) The cause for *Dreamers*, the young people who have been brought up in the US and have future in this country shall obtain legal recognition to have the dignity of a citizen. The legal system should be brought into the 21st century because it should reflect the realities of this time.

President Obama stated that both Democrats and Republicans are single-minded in the immigration issues, as these basic ideas have been supported by Democrat Ted Kennedy as well as Republican President George W. Bush.²⁷

II. TRADE AGREEMENTS

A. The Trans-Pacific Partnership

The 16th round of Trans-Pacific Partnership (TPP) negotiations was held on 4-11 March 2013.²⁸ The chief negotiators provided that they had achieved the goal set for the round by putting the negotiations on an

²⁶ White House, Reforming the Tax Code, <http://www.whitehouse.gov/economy/reform/tax-reform>

²⁷ White House, President Barack Obama Speaks on Comprehensive Immigration Reform, <http://www.whitehouse.gov/photos-and-video/video/2013/01/29/president-obama-speaks-comprehensive-immigration-reform#transcript>

²⁸ USTR Official Portal, TPP Negotiations Shift Into Higher Gear at 16th Round, <http://www.ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/round-16-singapore> [1 May 2013]. Also See Baker & McKenzie, International Trade Compliance Update, 'USA-USTR reports TPP is on track', <http://www.internationaltradeupdate.com/blog.aspx?entry=418>

accelerated track towards the conclusion of a next-generation comprehensive agreement this year as envisioned by the President Obama and other leaders of the TPP countries.²⁹ The TPP negotiations aim at establishing trade and investment framework that supports job creation by addressing the issues of the US stakeholders in the 21st century. It seeks to promote US competitiveness while expanding US trade in the dynamic region of Asia-Pacific region.³⁰

The US aims to spread its core trade values like transparency, labor rights and environmental protection to the TPP countries.³¹ The USTR provided that the TPP negotiations have successfully covered mutually acceptable paths on variety of issues such as customs, telecommunications, investment, services, technical barriers to trade, sanitary and phyto-sanitary measures, intellectual property, regulatory coherence, development and other issues.³² Following the 16th round of negotiations, the TPP countries will not negotiate further with regards to certain issues already covered and will only delve on them during the finalization of the legal text of the Agreement.³³

It will help the TPP countries to focus on the most challenging issues like intellectual property, competition and environment.³⁴ The TPP countries made a comprehensive package that will provide market access for goods, services and investment and government procurement.³⁵ Productive exchanges took place on the issues of industrial goods, agriculture, and textiles as well as on the rules of origin and on the question of promoting the development of regional supply chains in order to benefit companies based in the US and other TPP countries. Additionally, negotiators discussed the proposals of each country in order to open services, investment and government procurement markets.³⁶

The 11 countries agreed on additional inter-sessional work to build on market access advances made since the last round and to continue movement towards outcomes consistent with the high-level of ambition that leaders seek to achieve.³⁷ The TPP negotiations were temporarily adjourned on 6 March 2013 so that negotiators could engage with more than 300 stakeholders from TPP countries who registered to join the stakeholder events in Singapore. In response to stakeholder requests, Singapore arranged for both direct stakeholder engagement with negotiators and for 60 stakeholders to make presentations on wide variety of issues.³⁸ It has been decided that the TPP Trade Ministers shall meet in mid-April on the margins of the APEC Trade Ministers meeting in Surabhaya, Indonesia to discuss the progress to date and provide further guidance to negotiators. The 17th round of negotiations will be held on 15-24 May 2013, in Lima, Peru.³⁹

B. USTR seeks comments on International Services Agreement

The USTR promulgated a request and notice of a public hearing on the Administration's intention to enter into negotiations for an International Services Agreement with an initial group of 20 trading partners (Australia, Canada, Chile, Chinese Taipei, Colombia, Costa Rica, European Union on behalf of its member states, Hong Kong China, Iceland, Israel, Japan, Korea, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, Switzerland, and Turkey). The USTR is seeking comments regarding US' interests and priorities with

²⁹ Id.

³⁰ Id.

³¹ Id.

³² Id.

³³ Id.

³⁴ Id.

³⁵ Id.

³⁶ Id.

³⁷ Id.

³⁸ Id.

³⁹ Id.

regard to this initiative. The hearing is scheduled to be held in Washington DC on 12 March 2013. The deadline to provide comments is 26 February 2013.⁴⁰ The negotiations on the Agreement will begin in Geneva, Switzerland with the 20 trading partners who represent nearly two-thirds of global trade in services.⁴¹ The main aim of the agreement is promotion of international trade in services and supporting increased US service exports and jobs.⁴² A recent study by Peterson Institute for International Economics estimated that *even though the US is the world's largest services trader, tradable services are still five times less likely to be exported than manufactured.*⁴³

C. US-Peru Trade Promotion Agreement and Peru's forest sector governance

In conclusion of the meetings held during the first week of January 2013 between the Governments of the US and Peru, a five-point action plan was agreed upon to support Peru's forestry sector reform efforts and to promote Peru's implementation of its obligations under the US-Peru Trade Promotion Agreement (PTPA) Annex on Forest Sector Governance.⁴⁴ This bilateral action plan will increase the cooperation between both countries' government with regard to the sustainable management of big leaf mahogany and Spanish cedar, which are protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The US said to support Peru in undertaking the actions listed in the plan through its ongoing and substantial capacity-building program in Peru.⁴⁵

D. USTR to negotiate new International Trade Agreement on Services

The USTR notified US Congress on 15 January 2013 of the Obama Administration's intent to enter into negotiations for a new trade agreement on international trade in services. The negotiations shall begin in Geneva, Switzerland, with a group of 20 trading partners who represent nearly two-thirds of global trade in services. The objective of the negotiations is to promote international trade in services and supporting increased US service exports and jobs. A recent study by Peterson Institute for International Economics estimated that although the US is world's largest services trader, tradable services are still five times less likely to be exported than manufactured products.

Every \$ 1 billion in US services' exports supports an estimated 4.200 US jobs in America. Service industries employ workers in every congressional district across the United States, and approximately three out of every four American workers nationwide. If business services achieved the same export potential as manufactured goods globally, US exports could increase by as much as \$800 billion. To begin to realize this potential, the US needs to surmount variety of barriers that lock out, constrain, or disrupt the international supply services. An ambitious, high-standard international services agreement presents a tremendous opportunity to remove these impediments and boost US' economic growth and support additional jobs. As of 2011, the US has a

⁴⁰ Baker & McKenzie, International Trade Compliance Update, 'US-USTR seeks comments on an International Services Agreement', <http://www.internationaltradeupdate.com/blog.aspx?entry=279>

⁴¹ Baker & McKenzie, 'USA-Congress notified of intent to enter into negotiations to expand trade in services', International Compliance Update, <http://www.internationaltradeupdate.com/blog.aspx?entry=272>

⁴² Id.

⁴³ Id.

⁴⁴ The Annex on Forest Sector Governance, part of the Environment Chapter of the PTPA, reflects the commitment of both countries to take concrete actions to enhance forest sector governance, promote legal trade in timber products, combat trade associated with illegal logging and illegal trade in wildlife, and further sustainable management of forest resources.

⁴⁵ USTR Official Portal, The United States and Peru Reach Agreement on Action Plan to Strengthen Forest Sector Governance, 01/11/2013, <http://www.ustr.gov/about-us/press-office/press-releases/2013/january/us-peru-action-plan-forest-sector-governance>

\$178.5 billion surplus in services trade worldwide.⁴⁶ It has been stated that if the negotiations went well, it could attract countries like Brazil, India, China and Indonesia.⁴⁷

The key issues in the negotiations due in March shall include:

1. Market Access and National Treatment: At the heart of the ISA negotiation shall be an extensive bargaining over the extent to which governments may impose restrictions in the services sectors.⁴⁸ Another part of the discussions shall cover “Market Access” policies’ concerns such as limitation on the number of services companies in a market, requirements to form a certain kind of corporate entity such as a joint venture with a local partner, or a foreign equity caps. The other part of the discussions shall revolve around “National Treatment” which provides that the governments shall not discriminate against firms on nationality basis. The negotiations will provide for each country a “schedule” of commitments that reflect for each services sector, the restrictions that the economy is permitted to impose. This topic will reflect the business sentiment of companies which want to do business in the ISA economies.⁴⁹
2. Cross-border data flows: As the last trade agreement was concluded almost two decades ago, explosive innovations in information and communications technology (ICT) has fundamentally altered the way companies provide services. In order to ensure that the data crosses borders freely is critical for both the technological companies as well as all services companies, which increasingly provide their services electronically. Companies such as financial services, media and entertainment services, professional services, and many other service sectors have a high interest in the ISA to ensure that there is no barrier to the cross-border flows of digitalized information. The US supports free data flows but other countries have significant reservations.⁵⁰
3. State-owned enterprises: Making SOEs operate on commercial terms for foreign entities to be able to compete in the market.⁵¹
4. Negotiations on upcoming services: New kind of services like technology company, energy company offers.⁵²

E.US-Japan Agreement on US Beef

The USTR announced on 28 January 2013 that the US and Japan have agreed on new terms and conditions which provide for increased exports of US beef and beef products to Japan. Through the new terms which are scheduled to come into effect on 1 February 2013, Japan has agreed to permit the import of beef from cattle less than 30-months of age and cancel the previous limit of 20-months and other such prohibitions. This cancellation of prohibitions is expected to result in hundreds of millions of dollars in exports of the US’ beef to Japan in the coming years. The agreement goes a long way in normalizing trade with Japan by addressing the long-standing restrictions⁵³ that Japan introduced in response to bovine spongiform

⁴⁶ USTR Official Portal, US Trade Representative Ron Kirk Notifies Congress of Intent to Negotiate New International Trade Agreement on Services, Press Releases 01/15/2013, <http://www.ustr.gov/about-us/press-office/press-releases/2013/january/ustr-kirk-notifies-congress-new-it-as-negotiations> [1 May 2013]

⁴⁷ CrowellMoring, International Trade: Alerts and Newsletters, ‘The International Services Agreement: Off and Running’, <http://www.crowell.com/Practices/International-Trade/alerts-newsletters/The-International-Services-Agreement-Off-and-Running#.UbURINJHik4>

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

⁵³ In December 2003, Japan banned US beef and beef products following the detection of a bovine spongiform encephalopathy (BSE)-positive animal in the United States. In July 2006, Japan partially reopened its market to allow

encephalopathy (BSE). The USTR stated, “*this is great news for American ranchers and beef companies, who can now as a result of this agreement- increase their exports of US beef to their largest market for beef in Asia...this represents a significant and historic step in expanding US beef trade with Japan and growing American exports and jobs.*”⁵⁴

F.USTR announced agreements between the US and Jordan to boost investment, economic growth and labor cooperation

On 28 January 2013 the USTR announced that the US and the Kingdom of Jordan agreed on a set of Joint Principles for International Investment as well as Joint Principles for Information and Communication Technology (ICT) Services.⁵⁵ Both the countries agreed to this initiative which aims to promote labor rights and improve working conditions in Jordan.⁵⁶ These agreements mark significant advancement in the promotion of economic growth and trade between the two countries as well as the broader Middle East and North Africa region.⁵⁷ The USTR provided that *Jordan is a key strategic bilateral trade and investment partner*⁵⁸ to the United States and *plays a pivotal role in the Obama Administration’s trade and investment partnership initiative with the Middle East and North Africa. These achievements remain a key to advancing our countries’ common agenda for jobs and economic growth.*⁵⁹

These Joint Principles for International Investment is a statement of the US’ and Jordan’s’ continuing commitment to adopt and maintain a policy environment that enables and encourages international investment with a view that many economic benefits will arrive through such an investment.⁶⁰ Inclusive of such benefits are an open and non-discriminatory investment regime, strong protection for foreign investment, transparency and public participation in the development of laws and regulations, and a competitive playing field.⁶¹ The endorsement of the Joint Principles for Information and Communication Technology (ICT) services provides that both countries share the commitment to a sector that is having a transformative effect on the global economy.⁶²

imports of some of US beef from animals aged 20 months or younger produced under a special program for Japan. In December 2011, at the request of Japan’s Ministry of Health, Labor and Welfare (MHLW), Japan’s independent Food Safety Commission (FSC) initiated a risk assessment to examine raising the maximum age of the cattle from which US and certain other foreign beef and beef products could be exported to Japan, as well as revising the definition of specified risk materials (SRMs). (SRMs are certain cattle tissues that can carry the BSE agent.) Based on an FSC risk assessment released last October, Japan entered into consultations with the United States to revise the import requirements, including raising the age limit for US cattle and adopting a revised definition of SRMs for US beef and beef product imports that is closely aligned with international standards of the World Organization for Animal Health (OIE).

⁵⁴ USTR Official Portal, U.S. Trade Representative Ron Kirk and Agriculture Secretary Tom Vilsack Announce Agreement to Further Open Japan’s Market to U.S. Beef, Press Releases 01/28/2013, <http://www.ustr.gov/about-us/press-office/press-releases/2013/january/ustr-kirk-ag-sec-vilsack-japan-beef-announcement> [1 May 2013]

⁵⁵ USTR Official Portal, U.S. Trade Representative Ron Kirk Announces Agreements Between the United States and Jordan to Boost Investment and Economic Growth, Enhance Labor Cooperation, Press Releases 01/28/2013, <http://www.ustr.gov/about-us/press-office/press-releases/2013/january/ustr-kirk-announces-us-jordan-agreements> [1 May 2013]

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Jordan is currently the United States’ 77th largest goods trading partner with two-way goods trade totaling \$2.5 billion last year, up 17 percent from 2010. US goods exports totaled \$1.5 billion in 2011 and US goods imports totaled \$1.1 billion. US foreign direct investment in Jordan was \$145 million in 2011, up 46.5 percent from 2010.

⁵⁹ USTR Official Portal, U.S. Trade Representative Ron Kirk Announces Agreements Between the United States and Jordan to Boost Investment and Economic Growth, Enhance Labor Cooperation, Press Releases 01/28/2013, <http://www.ustr.gov/about-us/press-office/press-releases/2013/january/ustr-kirk-announces-us-jordan-agreements> [1 May 2013]

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

The adoption of ICT Principles shall support the global development of ICT services, including Internet and other network-based applications that are critical to innovative e-commerce.⁶³ The Principles addresses issues such as the free flow of information across borders, facilitating the cross-border supply of services and foreign investment in ICT sectors.⁶⁴ In the field of labor rights, both the countries concluded an *Implementation Plan Related to Working and Living Conditions of Workers*. The implementation plan reaffirms Jordan's commitment to protect internationally recognized labor rights and effectively enforce its labor laws.⁶⁵ The US and Jordan will follow-up on the provisions of the plan in the coming months, including through cooperative efforts and on-going dialogue as part of the Labor Subcommittee established under the US-Jordan Free Trade Agreement.⁶⁶

G. Thailand and the US: Trade and Investment Framework Agreement

The US and Thailand concluded a two-day meeting under their Trade and Investment Framework Agreement (TIFA) agreeing to expand cooperation⁶⁷ on bilateral, regional and multilateral issues in order to increase trade and investment also to support the creation and retention of jobs in both countries. The meeting also concerned advancing the *US-ASEAN Enhanced Economic Engagement Initiative* announced by the President Obama and the ASEAN Leaders as well as ways to coordinate our approaches in APEC and the WTO. The delegations focused on the path to expand goods, services, and agricultural trade, improve the protection and enforcement of intellectual property rights and resolve other issues affecting the commercial environment. The US raised concerns with respect to Thai import restrictions on pork products, proposed measures that would require domestic processing of credit card transactions and regulations which could restrict foreign participation in the Thai telecommunications sector. The delegates also exchanged information on regional developments. The US provided an update on the status of the Trans-Pacific Partnership negotiations and also outlined the goals as well as the objectives under the agreement.⁶⁸

H. Transatlantic Agreement between the EU and US

On 11 February 2013, the *Final Report on High Level Working Group on Jobs and Growth* was released. This working group was established during the November 2011 Summit meeting by the EU and the US with a task to identify policies and measures to increase US-EU trade and investment so as to support mutually beneficial framework for job creation, economic growth and international competitiveness.

⁶³ Id.

⁶⁴ Id.

⁶⁵ Id.

⁶⁶ USTR Official Portal, U.S. Trade Representative Ron Kirk Announces Agreements Between the United States and Jordan to Boost Investment and Economic Growth, Enhance Labor Cooperation, Press Releases 01/28/2013, <http://www.ustr.gov/about-us/press-office/press-releases/2013/january/ustr-kirk-announces-us-jordan-agreements> [1 May 2013]

⁶⁷ Thailand is a key ASEAN trading partner and longstanding ally. Currently, the United States is Thailand's fourth largest trading partner and Thailand is the 27th-largest trading partner of the US, with \$40 billion in bilateral goods and services trade in 2011. Major US exports to Thailand include electrical machinery and equipment, chemicals, metals, plastics, and cotton. The United States has invested more than \$11 billion in Thailand led by investment in the manufacturing and services sectors.

⁶⁸ USTR Official Portal, United States and Thailand Deepen Commitments to Engagement at Trade and Investment Framework Agreement Meeting, Press Releases 01/17/2013, <http://www.ustr.gov/about-us/press-office/press-releases/2013/january/US-Thailand-engagement> [1 May 2013]

The working group in its report recommended a comprehensive US-EU trade agreement which should include investment liberalization and protection provisions based on the highest levels of liberalization and highest standards of protection that both sides have negotiated to date. The working group recommended that the goal of negotiations should be to enhance business opportunities through substantially improved access to government procurement opportunities at all levels of government on the basis of national treatment. The working group recommended the following options for expanding transatlantic trade and investment:

- Elimination or reduction of conventional barriers to trade in goods, such as tariffs and tariff-rate quota
- Elimination, reduction, or prevention of barriers to trade in goods, services and investment.
- Enhanced compatibility of regulations and standards
- Elimination, reduction, or prevention of unnecessary “behind the border” non-tariff barriers to trade in all categories.
- Enhanced cooperation for the development of rules and principles on global issues of common concerns and also for the achievement of shared global economic goals.

The working group concluded that a comprehensive agreement addresses a broad range of bilateral trade and investment issues, including regulatory issues and contributes to the development of global rules. A comprehensive agreement would include ambitious reciprocal market openings in goods, services and investment as well as would address the challenges and opportunities of modernizing trade rules and enhancing the compatibility of regulatory regimes. Conclusion of such an agreement will generate new business and employment by significantly expanding trade and investment opportunities in country’s economy as well as pioneer rules and disciplines that addresses the challenges to global trade and investment that have grown in importance and shall strengthen the extraordinarily close strategic partnership between the US and the EU.

I. Ex-Im Bank signed \$ 5billion Agreement with Dubai Economic Council

The Ex-Im Bank of the US signed a \$5 billion Memorandum of Understanding [MOU] with the Dubai Economic Council. This MOU provides for cooperation in the areas of air-traffic control and airport infrastructure, railway, urban metro and port-development projects, power generation, oil, gas and petrochemical projects and water-treatment projects.⁶⁹

III. TRADE POLICY BY MEASURE

A. Measures affecting imports

(i) Tariffs and Other Charges

(1) US-Colombia Trade Promotion Agreement: Tariff elimination

On 12 March 2013, USTR published a notice in the Federal Register soliciting proposals concerning accelerated elimination of tariffs under article 2.3.4 of the *United States-Colombia Trade Promotion Agreement (USCTPA)*. The US and Colombia have not yet decided on the extent of tariff elimination. The US and

⁶⁹ Ex-Im Bank, Ex-Im Bank and Dubai Economic Council Sign \$5 Billion Agreement, <http://www.exim.gov/newsandevents/releases/2013/ExIm-Bank-and-Dubai-Economic-Council-Sign-5-Billion-Agreement.cfm>

Colombia expect to take into account several factors in considering whether to make such changes which includes the extent to which such changes may reduce transaction and manufacturing costs or increase trade between Colombia and the US; the workability of devising, implementing and monitoring new rules of origin and the level of breadth of interest that manufactures, processors, traders, and consumers in the US and Colombia express for making particular changes. The US and Colombia expect to make such changes which are supported by stakeholders in both countries.⁷⁰

(ii) Duties and other charges

On 12 March 2013, USTR promulgated a notice in the Federal Register with respect to designation of qualifying industrial zones (QIZs) under the United States-Israel Free Trade Area Implementation Act (IFTA Act), articles of QIZs encompasses portions of Israel and Jordan or Israel and Egypt which are eligible to receive duty-free treatment. Pursuant to the authority delegated by the President, the USTR is modifying the designation of the previously-designated Al Minya, Alexandria, Beni Suief, Central Delta, Greater Cario, and Suez Canal zones in Egypt under the IFTA Act to provide that all present and future facilities in these zones are potentially able to export goods duty-free to the US. The modifications will also clarify and in some cases, adjust the geographic boundaries of the QIZs.⁷¹

(iii) Customs Procedures

(1) *Mandatory Automated Export System Filing for All Shipments*

The Bureau of Census is responsible for collecting, compiling and publishing export trade statistics for the US under the provisions of Title 13, United States Code (U.S.C.), Chapter 9, Section 301. It amended its regulations to reflect new export reporting requirements during this quarter.⁷² A mandatory requirement provides an obligation on all the shipments requiring shipper's export declaration information to file the export information through the Automated Export System (AES) or AESDirect.⁷³ It is mandatory for all shipments of used self-propelled vehicles and temporary exports. In addition to the adoption of new export reporting requirements and modifying the post-departure filing programs. The Census Bureau is making remedial changes to the Foreign Trade Regulations [FTR] to improve clarity and to correct errors.⁷⁴

Through AES, the Census Bureau collects Electronic Export Information (EEI), the electronic equivalent of the export data formerly collected on the Shipper's Export Declaration, reported pursuant to Title 15 Code of Federal Regulations (CFR) Part 30.⁷⁵ The EEI consists of data elements set forth at 15 CFR 30.6 for an export shipment and includes information such as the exporter's personal identifying information, which includes name, address and identification number, and detailed information concerning the exported product.⁷⁶ Other federal government agencies use the EEI for export control purposes to detect and prevent the exports of certain items by unauthorized parties or to unauthorized destinations or end users.⁷⁷

⁷⁰ Baker & Mckenzie, International Trade Compliance Update, 'USA –USTR seeks petitions to accelerate tariff elimination and modify ROO under the US-Colombia TPA', <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=410>

⁷¹ Baker & Mckenzie, International Trade Compliance Update, 'USA-USTR modifies designations of QIZs under the IFTA Act', <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=409>

⁷² DOC, Federal Register No. 50, 15 CFR Part 30, 14 March 2013 <http://www.census.gov/foreign-trade/regulations/regs/regulations20130314-federalregister.pdf>

⁷³ Id.

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Id.

The EEI is exempt from public disclosure unless the Secretary of Commerce determines under the provisions of Title 13, U.S.C. Chapter 9 Section 301(g) that such exemption would be contrary to the national interest.⁷⁸ In August 2003, the Census Bureau, in agreement with US Customs and Border Protection (CBP) placed a moratorium on accepting new applications for post-departure filing.⁷⁹ The Census Bureau and CBP plan to continue the moratorium on accepting new applications pending the development of a program to collect advanced export information that will continue to facilitate trade and address national security concerns.⁸⁰ The Census Bureau is modifying the existing post-departure filing program for current approved filers.⁸¹

(2) *Energy Appliance Labeling Modifications*

On 9 January 2013, the Federal Trade Commission [FTC] proposed a rule and a conditional exemption to the Appliance Labeling Rule. The FTC proposed to amend the Rule by updating the range of comparability and unit energy cost figures for many Energy Guide labels.⁸² The rule obligates energy labeling for major home appliances and other consumer products, to help consumers compare competing models. Initially the rule applied to eight categories: refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. The Federal Commission subsequently expanded the Rule's coverage to include central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, and televisions. The Commission is currently conducting review of the Rule. The Rule obligates the manufacturers to attach yellow Energy Guide labels on many of these products, and prohibits retailers from removing the labels or rendering them illegible. In addition, the Rule directs sellers, including retailers, to post label information on websites and in paper catalogs from which consumers can order products. Energy Guide labels for covered appliances must contain three key disclosures: estimated annual energy cost; a product's cost; a product's energy consumption or energy efficiency rating as determined from Department of Energy (DOE) testing procedures and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models.

The amendment to the rules is to avoid requiring multiple label revisions within a short time period. The Commission proposes to require these label content changes concurrently with the range updates. The Commission also proposes to grant request from the Association of Home Appliance Manufacturers (AHAM) seeking an exemption relating to labeling requirements for refrigerators, refrigerator-freezers and freezers and clothes washers to address recent DPE test procedure changes.⁸³

(3) *“Cachaca” a type of rum as a distinctive product of Brazil*

On 25 February 2013, the Alcohol and Tobacco Tax and Trade Bureau, Treasury (TTB) published in the Federal Register a final rule [Docket No. TTB-2012-002; TTB-112; Ref: n=Notice No. 127] which amends the regulations for the standards of identity for distilled spirits to include “Cachaca” as a type of rum and as a distinctive product of Brazil. The amendment followed request from the Government of Brazil and subsequent discussions with the Office of the United States Trade Representative [USTR]. The final rule shall be in effect from 11 April 2013. As for the existing certificates of label approval which contain the term

⁷⁸ Id.

⁷⁹ Id.

⁸⁰ Id.

⁸¹ Id.

⁸² Baker & McKenzie, International Trade Compliance Update, ‘FTC proposes energy consumption disclosures under Appliances Labeling Rule’, <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=242>

⁸³ Federal Register/ Vol. 78, No. 6/Wednesday, January 9, 2013/ Proposed Rules

“Cachaca” and do not comply with the regulations in 27 C.F.R. Part 5 will be revoked by the enforcement of the regulation on 26 August 2013. Section 5.35a (27 C.F.R. 5.35a) is effective from 11 April 2013 to 25 February 2015.⁸⁴

(4) *Albania accepts ATA Carnets*

On 20 February 2013, the US Council for International Business (USCIB) promulgated that Albania has joined the ATA Carnet system with effect from 25 February 2013. ATA Carnet country members waive custom duties and taxes on many goods brought into US temporarily if ATA Carnet [merchandise passport] is used. The ATA Carnet serves as a Customs entry and surety bond.⁸⁵

(5) *Third body assessment for children's products*

On 12 March 2013, the Consumer Product Safety Commission (CPSC) published a final rule⁸⁶ which prohibits specified products containing phthalates. It is a rule which states that such products should not apply to any component part of children's toys or child care articles that is not accessible to a child through normal and reasonably foreseeable use and abuse of such product. In this document, the Consumer Product Safety Commission (CPSC) issues guidance on inaccessible component parts in children's toys or child care articles subject to section 108 of the CPSIA. The rule is in effect.⁸⁷

(iv) Rules of Origin

(1) *Quarterly Update*

The US notified the WTO Secretariat under Paragraph 4 Annex II to the Agreement on Rules of Origin which provides that the U.S. shall promptly notify any modifications on their preferential rules of origin, including a listing of the preferential arrangements to which they apply, judicial decisions, and administrative rulings of general application relating to their preferential rules of origin to the WTO Secretariat.⁸⁸ The notifications received are provided in the **Annexure A**.

(2) *US-Colombia Trade Promotion Agreement: Modifies rules of origin*

On 12 March 2013, the USTR promulgated notice for seeking proposals on modification on appropriate changes to the non-textile and non-apparel products rules of origin under Article 4.14 of the USCTPA. The US and Colombia have not decided several factors into considering such modifications, like the extent that any such changes may reduce transaction and manufacturing costs or increase trade between Colombia and the US; the workability of devising, implementing and monitoring new rules of origin and the level and

⁸⁴ Baker & McKenzie, 'USA- Amendment to the standards of identity for distilled spirits', International Trade Compliance Update, <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=362>

⁸⁵ Baker & McKenzie, International Trade Compliance Update, 'Albania – Albania to accept ATA Carnets', <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=349>

⁸⁶ Federal Register CPSC Docket No. CPSC-2012-0026

⁸⁷ Federal Register, The Daily Journal of the United States Government, <https://www.federalregister.gov/articles/2013/02/14/2013-03400/childrens-toys-and-child-care-articles-containing-phthalates-final-guidance-on-inaccessible>

⁸⁸ WTO Committee on Rules of Origin, G/RO/N/88, Notification under paragraph 4 of Annex II of the Agreement on Rules of Origin, 18 January 2013.

breadth of interest that manufacturers, processors, traders and consumers in the US and Colombia express that are broadly supported by stakeholders in both countries.⁸⁹

(3) *AMS amends COOL regulations*

On 12 March 2013, the Agricultural Marketing Service (AMS) published the proposed rule⁹⁰ to amend the mandatory country of origin labeling of beef, pork, lamb, chicken, goat meat, wild and farm-raised fish and shellfish, perishable agricultural commodities, peanuts, pecans, ginseng and macadamia nuts. The proposed rule shall change the Country of Origin Labeling (COOL) regulations to change the labeling provisions for muscle cut covered commodities to provide consumers with more specific information and amend the definition of “retailer” to include any person subject to be licensed as a retailer under the Perishable Agricultural Commodities Act (PACA). COOL regulations are in effect in pursuant to the Agricultural Marketing Act of 1996. Such amendments shall change labeling provisions for muscle cut covered commodities to provide consumers with more specific information and modify overall operation of the program.

This measure comes in the background of a WTO Panel and AB decision against the US that the COOL requirements for muscle cut meat commodities were inconsistent with US obligations under the WTO Agreement on Technical Barriers to Trade (TBT Agreement). The AB held that the COOL requirements violated the Agreement on Technical Barriers to Trade in particular the national treatment obligation of according equal treatment to the foreign good as compared with the national good. The WTO Dispute Settlement Body accepted the recommendation of the Appellate Body and the US was given time till 23 March 2013 to comply with the same. The agency brought the above-mentioned proposal to bring the COOL requirements into compliance with the US’ International Trade obligations.⁹¹

(v) Quantitative Trade Measures, Restrictions, Controls and Licensing

(1) *Import restrictions on certain archaeological material from Belize*

On 5 March 2013, the US Customs and Border Protection (CBP) promulgated a final rule⁹² which amends the CBP regulations to impose import restrictions on certain archeological material from Belize. Such restrictions are imposed pursuant to an agreement between the US and Belize which was entered into authority by the *Convention on Cultural Property Implementation Act* in accordance with the *1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. The final rule modifies CBP regulations by adding Belize in the list of countries against which the imposition of import restrictions on cultural property has been effected under a bilateral agreement. The final rule also provides the designated list that describes the types of archaeological material to which the restrictions apply.⁹³

⁸⁹ Baker & McKenzie, International Trade Compliance Update, ‘USA – USTR seeks petitions to accelerate tariff elimination and modify ROO under the US-Colombia TPA’, <http://www.internationaltradeupdate.com/blog.aspx?entry=410>

⁹⁰ Federal Register Document No. AMS-LS-13-0004

⁹¹ Baker & McKenzie, International Trade Compliance Update, ‘USA – AMS proposes amendments to the country of origin labeling of beef, pork, lamb, chicken, goat, fish and shellfish and certain other commodities’, <http://www.internationaltradeupdate.com/blog.aspx?entry=407>

⁹² Federal Register CBP Dec. 13-05

⁹³ Baker & McKenzie, International Trade Compliance Update, ‘USA – CBP imposes import restrictions on certain archaeological material from Belize’, <http://www.internationaltradeupdate.com/blog.aspx?entry=396>

(2) Import restrictions on Cambodian artifacts

On 7 January 2013, the Department of State proposed to extend the *Memorandum of Understanding Between the Government of the United States of America and the Government of the Kingdom of Cambodia Concerning the Imposition of import Restrictions on Archaeological Material from Cambodia from the Bronze Age through the Khmer Era (MOU)* [Public Notice 8140]. The Government of Cambodia has informed the US of its interest in an extension of the MOU. The extension of the MOU is proposed in accordance with the authority vested in the Assistant Secretary for Educational and Cultural Affairs and pursuant to the requirement under 19 U.S.C 2602(f)(1).⁹⁴

(3) Department of Commerce [DOC] to extend the Steel Import Monitoring and Analysis (SIMA)

The Steel Import Monitoring and Analysis (SIMA) system has been extended by the DOC until 21 March 2017. The purpose of the SIMA system is to provide the public statistical data on steel imports entering the US seven weeks earlier than it would otherwise be available to the public at large. The purpose of SIMA system is to provide steel producers, steel consumers, importers and the general public with accurate and timely information on anticipated imports of certain steel products. Import licenses, obtained through the Internet-based SIMA licensing system, are required for US imports of basic steel mill products. Aggregate import data obtained from the licenses are updated weekly on the SIMA website.⁹⁵

(4) Supreme Court ruling on 'Parallel Importation'

The Supreme Court of US ruling in *Kirtsaeng v. John Wiley & Sons* could have a direct effect on US trade policy, including Trans-Pacific Partnership (TPP) Negotiations. *Parallel Importation is an act of importing a legitimately produced copyrighted good into the US market that was meant for sale in a foreign market and is of critical importance for online sellers like eBay.*⁹⁶ Under the US Copyright Law, the buyer of a good in the US is allowed to resell it under the 'First Sale Doctrine' which exhausts the copyright holder's right to control after the distribution of the item.⁹⁷

The SC held that the 'First Sale Doctrine' is applicable in the US, which was not clear before this decision.⁹⁸ This 6-3 decision by the SC is contrary to the US proposal tabled in the TPP negotiations in February 2011, which requires TPP partners to provide copyright holders with a right to block imports of items that are produced for sale in another partner's territory, regardless of whether they are 'new' or 'used' items. Companies like eBay urged the USTR to scale back the protections afforded to copyright holders in the TPP proposal, the SC's decision will obviously strengthen their demand.⁹⁹ Although, the TPP negotiations may stall at this topic, various TPP partners like Australia, New Zealand, Chile, Singapore and Malaysia have already recognized the principle of international exhaustion [i.e. they currently allow parallel importation after the copyrighted item has gone through a legitimate transaction abroad].¹⁰⁰

⁹⁴ Baker & McKenzie, International Trade Compliance Update, 'USA –State proposes to extend import restrictions on Cambodian artifacts', <http://www.internationaltradecomplianceupdate.com/blog.aspx?entr y=231>

⁹⁵ Dept. of Commerce, ITA, Steel Import Monitoring and Analysis System, 19 CFR Part 360 [Docket No.; 121016549-2549-01] RIN 0625-AA93, <http://www.gpo.gov/fdsys/pkg/FR-2013-02-15/html/2013-03619.htm>

⁹⁶ Inside U.S. Trade, *Supreme Court Parallel Importation Ruling Could Impact U.S. Trade Policy*, May 09, 2013, <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-03/22/2013/supreme-court-parallel-importation-ruling-could-impact-us-trade-policy/menu-id-710.html>

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Id.

However, the task for the US shall be to consider the provisions on “parallel importation” in the US-Morocco and US-Jordan Free-Trade Agreements. Several legal experts have noted that the SC ruling is not binding on the substantive obligations to which the US agreed in the context of international trade agreements with Morocco and Jordan. Therefore, the US may continue to allow copyright holders to ban parallel importation from these two countries pursuant to the FTAs.¹⁰¹

The USTR may also smooth the conflict as those specific agreements provide the rights to the copyright holders to block the imports but do not state explicitly that whether the power still applies after the goods have been sold once in a foreign market.¹⁰² eBay and the Computer and Communications Industry Association (CCIA) have proposed “balancing language” to accompany the US TPP proposal which would essentially ensure that it conforms the Supreme Court’s ruling.¹⁰³

This proposal would provide an “international exhaustion provision” under which the first sale of an item with the right holder’s consent in any of the parties’ territories would exhaust the right holder’s ability to control the resale of that item.¹⁰⁴ As this language will allow an individual in one TPP country to use eBay or any other e-commerce service to sell an item to a person located in another TPP country.¹⁰⁵ According to eBay, consumers should be able to purchase authentic good at the lowest price anywhere in the world, and businesses should be able to sell authentic goods purchased from anywhere in the world.¹⁰⁶

(5) *Department of State eases the ban on Burmese imports to US*

The Department of State notified in the Federal Register [Public Notice 8169] that it is in the national interest of the U.S. to ease the ban on Burmese imports. Such prohibitions ensued pursuant to S. 3(a) of the *Burmese Freedom and Democracy Act of 2003* (P.L. 108-61) as amended (BFDA), which requires the President to prohibit the importation of any article that is a product of Burma into the US and which the President implemented in S.3 of Executive Order 13310 (July 28, 2003). In conjunction with this declaration, the Department of the Treasury’s Office of Foreign Assets Control issued General License (No. 18) on November 16, 2012 which authorizes Burmese imports subject to certain limitations. This waiver of ban is in consequence to various reforms undertaken by Burma which addresses core concerns of the United States such as releasing political prisoners, human rights and national reconciliation.¹⁰⁷

(6) *US-Mexico mutual recognition of trusted trader programs*

Customs and Border Protection [CBP] and Mexico’s Tax Administration Service [SAT] signed a Joint Work Plan on 17 January 2013 which lays out a mechanism for mutual recognition of Authorized Economic Operator programs. The Authorized Economic Operator Programs are CBP’s Customs-Trade Partnership

¹⁰¹ Id.

¹⁰² Id.

¹⁰³ Id.

¹⁰⁴ Id.

¹⁰⁵ Id.

¹⁰⁶ Inside U.S. Trade, *Supreme Court Parallel Importation Ruling Could Impact U.S. Trade Policy*, May 09, 2013, <http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-03/22/2013/supreme-court-parallel-importation-ruling-could-impact-us-trade-policy/menu-id-710.html>

¹⁰⁷ Baker & McKenzie, International Trade Compliance Update, ‘USA-Department of State eases ban on Burmese imports’, January 2013, <http://www.internationaltradecomplianceupdate.com/blog.aspx?DateFrom=1/1/2013&DateTo=2/1/2013&All=null>

Against Terrorism (C-TPAT)¹⁰⁸ and SAT's New Certified Companies Scheme (NEEC). The plan shall be implemented in two years. Mutual recognition will allow for companies enrolled in one program to receive reciprocal benefits from the other with the result of both further securing the international supply chain and facilitating trade between the US and the Mexico.¹⁰⁹

(vi) Technical Regulations and Standards

(1) For *quarterly updates* See **Annexure B**.

(vii) Sanitary and Phyto-sanitary measures

(1) For *quarterly updates* See **Annexure C**.

(viii) Anti-Dumping

(1) For *quarterly updates* See **Annexure D**.

(2) USDOC modifies extends the time limits for submissions

On 16 January 2013, DOC published in the Federal Register¹¹⁰ a proposed rule that seeks to modify its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings. The modification clarifies that parties may request an extension of time limits before any time limit already established, expires. This modification will also clarify circumstances under which circumstances will DOC grant extension of time limits.¹¹¹

B. Measures affecting exports

(i) Prohibitions, restrictions and licensing

(1) President signed Satellite Export Control Reforms

President Obama signed into law the two provisions which are part of the National Defense Authorization Act. The Bill provides measures to reform export restrictions on certain satellites and components, which are not deemed highly sensitive, and to expand the successful *Troops to Teachers Program*.¹¹² This law helps Colorado's space industry to become more competitive in the global market while protecting the national security interests.¹¹³ The Bill gives discretion to transfer certain less sensitive satellites and satellite components from the more restrictive U.S. Munitions List to the Commerce Control List.¹¹⁴ The Bill is based on the recommendations from a joint Department of Defense and Department of State on U.S.exports

¹⁰⁸ C-TPAT is a voluntary government-business initiative to build cooperative relationships that strengthen and improve overall international supply chain and US border security.

¹⁰⁹ Baker & McKenzie, International Trade Compliance Update, 'US, Mexico sign joint work plan for mutual recognition of trusted trade programs', <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=282>

¹¹⁰ Docket No. 121231747-2747-01

¹¹¹ Baker & McKenzie, 'USA-Commer modifies regulations regarding extension of time limits', International Trade Compliance Update, <http://www.internationaltradecomplianceupdate.com/blog.aspx?DateFrom=1/1/2013&DateTo=2/1/2013&All=null#>

¹¹² Inside U.S. Trade, MOFCOM Spokesman Shen Danyang Commented on Control of Export to China as Provided in US "NDAA 2013", http://insidetrade.com/iwpfile.html?file=jan2013%2Fwto2013_0043a.pdf [1 May 2013].

¹¹³ Id.

¹¹⁴ Id.

controls in the satellite industry.¹¹⁵ The President signed the National Defense Authorization Act for fiscal year 2013, which involves control on satellite export to China.¹¹⁶

MOFCOM retaliated with the concern that the U.S. has relaxed control on export of satellites and their components but the control on export to China remains which restricts China-US cooperation on civil satellite field.¹¹⁷ China stated that the U.S. has always excluded China from the benefited parties in its export control reform.¹¹⁸

(ii) Official support and related fiscal measures

(1) *Ex-Im Bank financed export of Boeing Aircraft to Indonesia's Lion Air*

The Ex-Im Bank of the US approved a final commitment of \$1.1 billion to finance the export of a fleet of Boeing 737-900ER (extended range) aircraft with CFM International aircraft engines to Lion Air, the largest privately owned airline in Indonesia. The aircraft will be delivered to Lion Air, Malindo Airways and Batik Air (Indonesia). This transaction will support an estimated 7,300 jobs at Boeing Manufacturing in Renton, Wash., and its suppliers in numerous states across the country.¹¹⁹

(iii) Export control reform in 2013

The Obama administration has stated the export reform priorities for 2013 which includes a common government IT system and a rebuilt list structure to make “Specially Designed” definition and Commerce Control list classification easier to understand with harmonized definitions across both the US Munitions List (USML) and the Commerce Control List (CCL). A decision on delegating all the responsibilities with regards export control to a single agency is pending. Finalizing the rewrite of the first two categories of USML under Section 38(f) of the Arms Export Control Act shall require a formal notification to Congress followed by a waiting period before publication of any final rule. The two categories which are proposed to be finalized are USML Category VIII (Aircraft) and Category XIX (Gas Turbine Engines). Additionally, the term ‘specially designed’ will be defined as it was undefined in the current regulations.¹²⁰

(iv) USTR Foreign Trade Barrier Findings: India

USTR FOREIGN TRADE BARRIER FINDINGS: INDIA

- 1) No official publication that provides all relevant information on tariffs, fees and tax rates on imports.
- 2) Customs rates are modified on an ad hoc basis and are modified through notifications in the Gazette of India and contain numerous exemptions that vary according to product, user, or specific export promotion program, rendering the system complex to administer and extensively open to administrative discretion.
- 3) Tariff regime is characterized by pronounced disparities between bound rates [rates which under WTO rules cannot be

¹¹⁵ Inside U.S. Trade, President Signs Satellite Export Control Reforms, Troops to Teachers into Law, http://insidetrade.com/iwpfile.html?file=jan2013%2Fwto2013_0024a.pdf

¹¹⁶ Id.

¹¹⁷ Id.

¹¹⁸ Inside U.S. Trade, MOFCOM Spokesman Shen Danyang Commented on Control of Export to China as Provided in US “NDAA 2013”, http://insidetrade.com/iwpfile.html?file=jan2013%2Fwto2013_0043a.pdf [1 May 2013].

¹¹⁹ <http://www.exim.gov/newsandevents/releases/2013/ExIm-Bank-Approves-11-Billion-in-Financing-for-USManufactured-B737900ER-Aircraft-to-Indonesias-Lion-Air.cfm>

¹²⁰ CrowellMoring, This month in International Trade-January 2013, ‘Export Control Reform-Next Steps in 2013’, http://www.crowell.com/Practices/International-Trade/news/This-Month-in-International-Trade-January-2013#.UbO3L_aMGJM

- exceeded] and the most favored nation (MFN) applied rates charged at the border.
- 4) High tariff rates on many goods which include flowers [60%], natural rubber [70%], automobiles and motorcycles [75%, 100% for used products], raisens and coffee [100%], alcoholic beverages [150%] and textiles [some *ad valorem* equivalent rates exceed 300%].
 - 5) January 2013 customs notification announcing to double the tariff on imports of crude edible oils.
 - 6) No change in tariff rates for either wines or spirits and the state-level taxes result in imported wine and spirits being taxed at a significantly higher rate than like domestic products.
 - 7) Failed to observe customary transparency requirements, such as publication of this information in the Official Gazette or notification to WTO committees, which can, in practice, act as a barrier to trade.
 - 8) Treatment of manufactured goods same as secondhand products, without recognizing that remanufactured goods have typically been restored to original working condition and meet the technical and/or safety specifications applied to products made from virgin materials.
 - 9) Refurbished computer spare parts can only be imported if an Indian chartered engineer certifies that the equipment retains at least 80% of its residual life, while refurbished computer parts from domestic sources are not subject to this requirement.
 - 10) Imported boric acid is subjected to stringent requirements, including arbitrary quantity limitations and conditioned applicable only to imports used as insecticide. Traders (i.e. wholesalers) of boric acid for non-insecticidal use remain unable to import boric acid for resale because they are not end users of the product and cannot obtain no-objection certificates (NOCs) from the relevant Indian government ministries and departments or import permits from the Ministry of Agriculture.
 - 11) Valuation procedures allow India's customs officials to reject the declared transaction value of an import when a sale is deemed to involve a lower price compared to the ordinary competitive price. US exporters reported that India's customs valuation methodologies do not reflect actual transaction values and raise the cost of exporting to India beyond applied tariff rates. US companies are faced with an extensive investigation with respect to their use of certain valuation methodologies when importing computer equipment. US Companies have reported to being subjected to excessive search and seizures.
 - 12) No assessment of the basic customs duty, additional duty, and special additional duty separately on the customs value of a given imported product. Rather, cumulatively, which means the additional duty is assessed on the sum of the actual (or transaction) value and the basic customs duty, while the special additional duty is assessed on the sum of the actual (or transaction) value, the basic customs duty, and the additional duty. This results in importers paying higher duties than they should be liable or on the basis of the actual value of their imported product.
 - 13) Foreign firms are disadvantaged when competing in India for government contracts due to the preference afforded to Indian state-owned enterprises and the prevalence of such enterprises. Under Micro, Small and Medium Enterprises (MSME) Act, 2006 India requires 21 specific goods and services should be purchased from MSMEs. India provides similar preferences to government-registered 'small scale industry units' for certain products. India's defense "off-sets" program requires companies to invest 30% or more of the value of contracts above 3 billion rupees in India produced parts, equipment, or services. It is not uncommon for the Defense Ministry to request significant changes to previously accepted offset proposals.
 - 14) To improve the procurement practices, the Planning Commission and the Ministry of Finance circulated separate draft procurement bill for comment. Each draft contained certain provisions that appear to deviate from international best practices as set out in the revised WTO Government Procurement Agreement approved in December 2011.
 - 15) India provides pre-shipment and post-shipment financing to exporters at a preferential rate. India's textile industry enjoys subsidies through various modernization schemes, such as the Technology Upgradation Fund Scheme and the Scheme for Integrated Textile parks.
 - 16) India submitted two notifications covering the 2003-2009 time period to the WTO Committee on Subsidies and Countervailing Measures (SCM Committee), both of which notify only one central government program of preferential tax incentives related to Free Trade Zones, Special Economic Zones, and Export Processing Zones. These notifications

were substantially incomplete, as they failed to notify several well-known Indian subsidies, including export subsidy programs. India's failure to notify its subsidy programs in a timely manner led the USTR to counter-notify 50 Indian subsidy programs to the WTO Subsidies Committee in October 2011 under Article 25.10 of the SCM Agreement.

- 17) The US had submitted a formal request to the SCM Committee in February 2010 requesting a calculation of the export competitiveness of India textile and apparel products. The resulting calculation in March 2010 indicated that with respect to textile and apparel products, India met the definition of "export competitiveness" as set out in Article 27.6 of the SCM Agreement. As a result, India should phase out export subsidies for those products over a period of eight years, in accordance with the SCM Agreement. Since, the calculations India has announced some reductions in duty drawback rates for textile products and the intention to eliminate certain subsidy programs. However, India not only continues to offer subsidies to the textiles and apparel sector in order to promote exports, but it has also extended or expanded such programs and even implemented new export subsidy programs that benefit the textiles and apparel sector. As a result, the Indian textiles sector remains a beneficiary of many export promotion measures [e.g., Export-Oriented Units, Special Economic Zones, Export Promotion Capital Goods, Focus Product and Focus Market Schemes] that provide, among other things, exemptions from customs duties and internal taxes based on export performance.
- 18) IPR concerns:
 - a. Decision of the Controller General of Patents, Designs and Trademarks to effectively require an innovator to manufacture in India in order to avoid being forced to license an invention to third parties.
 - b. Provisions in India's National Manufacturing Policy that seeks to curtail patent rights to facilitate technology transfer in the clean energy sector.
 - c. India lacks an effective protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical and agrochemical products.
 - d. There is a need for stringer protection and enforcement for trademarks and copyrights, including addressing the failure of India's 2012 Copyright law amendments to effectively implement the WIPO Internet Treaties and protection against unlawful circumvention of technological protection measures.
- 19) USTR noted that India's stringent and nontransparent regulations and procedures governing local shareholding inhibit investment and increase risk to new market entrants. Price control regulations in some sectors, such as the pharmaceutical sector, have further undermined the attraction of foreign investors of increasing their equity holdings in India.
- 20) USTR states that like PMA, TRAI policy recommendations will not promote domestic manufacturing much but instead produce perverse consequences of discouraging investment, weakening ICT infrastructure and increasing costs to India's consumers and firms seeking to do business in India.
- 21) Steadily increased export duties on iron ore and its derivatives. In addition to that, Indian States and stakeholders have pressurized the government to ban export so iron ore. Such duties and bans affect international markets for raw materials used in the steel production. India also makes exports of high-grade iron ore to pass through state trading enterprises, with the state-owned Minerals and Metals Trading Company acting as a clearinghouse. USTR provides that it appears that India is using such measures to improve the supply and lower prices of inputs used by India's rapidly growing steel industry.
- 22) Export restrictions and bans on cotton and yarn which contributes to significant volatility on world cotton markets and appears to provide India's textile and apparel producers with a cheaper supply of cotton during a period of high world cotton prices. After an intensive US engagement and the changing conditions in the world market, India allows export of cotton and yarn subject only to registration with the government.
- 23) The Indian Minerals and Metals Trading Corporation engages in significant countertrade, although State Trading Corporation also does a small amount of countertrade. *Countertrade is a form of trade in which imports and exports are linked in individual transactions.* Private companies are encouraged in India to use countertrade. Global tenders usually include a clause stating that all other factors being equal, preference shall be given to companies willing to agree countertrade.
- 24) USTR noted that in the agriculture sector, India has established tariff-rate quotas for corn and dairy products. Access to the tariff-rate quota is complicated by end-user requirements which often lead to low fill rates.

IV. MEASURE AFFECTING PRODUCTION AND TRADE

(A) Trade

(1) *FDA plan for International Capacity Building and Tracing*

In the process of implementing the Food Safety Modernization Act, the Food & Drug Administration (FDA) announced an International Food Safety Capacity-Building Plan. The proposal seeks to expand technical, scientific and regulatory food safety capacity of foreign governments and the respective food industries in countries from which foods are imported into the U.S. The plan will include new tracking requirements for food production supply chains with flexibility on how the tracking is implemented. The plan states that the FDA will share such information with its foreign counterparts on an increased basis.¹²¹

(2) *Restriction on Shark fin trade*

On 11 March 2013, the US Fish and Wildlife Service (FWS) promulgated that sharks and manta rays have received protection under the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES). In the Bangkok CITES meeting from 3-14 March 2013 member nations voted on an increased protections for five species of sharks as well as two species of manta rays. The US has been a supporter of this initiative and has worked on a coalition of countries including Brazil, Colombia, the European Union, Costa Rica, Honduras, Ecuador, Mexico, Comoros, and Egypt, among others. A proposal by Colombia and co-sponsored by the US and Brazil to list oceanic white ship sharks in Appendix II of the CITES was adopted in a secret ballot vote 92-42 with 6 abstentions.

Appendix II of CITES provides for increased protection but allows legal and sustainable trade. The listing of commercially-exploited marine species especially those in the high seas has been a very polarized and debated issue in the CITES conference. It is because the provisions for marine species taken on the high seas are open to interpretation. In an early meeting, the members passed a resolution classifying CITES implementation for marine species taken for the high seas, titled "Introduction from the Sea". The *Introduction from the Sea* provisions provide a clear and comprehensive framework for implementation of listings of species taken on the high seas. Inclusive of the oceanic white tip sharks, proposals to increase protection for three species of hammerhead sharks – scalloped hammerhead, great hammerhead, and smooth hammerhead; porbeagle sharks; and manta rays were adopted by the members. The US is supportive and seeks support from other countries on such proposal.¹²²

(B) Intellectual Property Rights

(1) *IPR Seizure Statistics*

¹²¹ CrowellMoring, This month in International Trade – 2013, 'FDA announces plan for international capacity building and tracing', <http://www.crowell.com/Practices/International-Trade/news/This-Month-in-International-Trade-March-2013#.UbUJo9JHIk4>

¹²² Baker & McKenzie, International Trade Compliance Update, 'CITES gives protection to five species of sharks and two manta rays', <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=412>

The Department of Homeland Security (DHS) released the Intellectual Property Rights Fiscal Year 2012 Seizure Statistics. The report prepared by the Customs and Border Protection (CBP) Office of International Trade provides contains data on IPR seizures made by CBP and US Immigration and Customs Enforcement (ICE). It provided that CBP/ICE efforts led to 691 arrests, 423 indictments and 334 prosecutions in 2012. The agencies have speeded their efforts to prevent shipments of counterfeit goods through the mail and express carriers as well as internet sales by taking down 697 sites. The number of IPR seizures remained consistent from 24,792 in FY 2011 to 22,848 in FY 2012, although the dollar value increased. The report provides information on seizures by commodities, value, country of origin, etc. As in past, China remains the source of the greatest value of counterfeit goods.¹²³

(2) IPR 301 Report: Highlights

(a) Ukraine, a priority foreign country

The USTR designated Ukraine a Priority Foreign Country (PFC) making it the first time in seven years that a country is listed in that country. The PFC designation is reserved by statute for countries with the most egregious IPR-related acts, policies and practices with the greatest adverse impact on the relevant US products and not negotiating in good faith to make significant progress in negotiations to provide adequate and effective IPR protection. Ukraine has persistently failed to meet its commitment in order to improve IPR protection as well as commitments in an Action Plan negotiated with the US in 2010, and in the degree of deteriorations in IPR protection, enforcement, and market access for persons relying on IPR Ukraine. Ukraine's actions or inactions are causing significant damage to these industries reliant on those IPR in Ukraine's market and in other markets as well. In the bilateral engagement, Ukraine has made a series of commitments to make specific improvements in the areas of government use of pirated software, nontransparent administration of royalty collecting societies and online piracy. Ukraine and the United States agreed to an IPR Action Plan in 2010, which Ukraine publicized in 2011. Implementation of t his plan was an outcome of an intensive bilateral engagement in 2012, including through the Trade and Investment Council meeting. Recent efforts to demonstrate a commitment in order to resolve long-standing problems have not gone far enough. The situation on the following issues has further deteriorated:

- a. Unfair, nontransparent administration of the system governing collecting societies:** The entire system of collecting and disbursing music royalties in Ukraine has deteriorated. Ukraine has a significant problem with the operation of illegal or "rogue" collecting societies, i.e., organizations that collect royalties by falsely claiming they are authorized to do so.
- b. Widespread and admitted use of infringing software by the Ukrainian Government.**
- c. Persistent failure to implement any effective and transparent system to combat online piracy**
- d. Other IPR Concerns:** Criminal prosecution for counterfeiting crimes are stalled and ineffective. The seized goods are not disposed off or released in a timely manner. Large amounts of counterfeit products, as well as pirated goods, are openly sold in physical market in Ukraine. The US will continue to engage Ukraine bilaterally on these and other matters, outside of the Section 301 investigation.

Such actions of the Ukrainian Government have cumulatively resulted in significant financial damage to US copyright-related industries, including the foregone market opportunities and the impact on the markets in other countries. Intensive bilateral engagement by the US has not resulted in meaningful change and the

¹²³ Baker & McKenzie, International Trade Compliance Update, 'USA-DHS releases annual report on IPR seizures', <http://www.internationaltradecomplianceupdate.com/blog.aspx?entry=280>

situation in Ukraine appears to have worsened rather than improved in 2012.

(b) Initiatives to strengthen IPR protection and enforcement internationally

IPR and Trans-Pacific Partnership Agreement [TPP]: It is a key initiative through which the US seeks to advance the multifaceted US trade and investment interests in the Asia-Pacific region by negotiating an ambitious, 21st century regional trade agreement along with Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam, in addition to Canada and Mexico, which joined negotiations in 2012. The US also welcomed Japan's participation in the TPP negotiations as each of the current TPP countries successfully completes its respective domestic process for approving that participation. The TPP negotiations are being undertaken with this group of like-minded countries with the goal of creating a platform for integration across the region, including strong standards for the protection and enforcement of IPR in the 21st century.

Transatlantic Trade and investment Partnership (TTIP) Agreement: On 12 February 2013, the US and the EU announced that they shall initiate the internal procedures necessary to launch negotiations on the TTIP. On 20 March 2013, the USTR notified Congress of the President's intent to enter into negotiations for a trade agreement with the EU. The US and the EU have one of the highest levels of IPR protection and among the most robust IPR enforcement in the world. Together, they have developed mechanisms inclusive of Transatlantic IPR Working Group, to successfully cooperate on IPR matters, including in third countries and international organizations.

World Trade Organization: The US promotes discussions in the TRIPS Council on the positive role of IPR protection and enforcement in contributing to national innovation environments, including with respect to small and medium sized enterprises. The discussions involves contributions from a broad array of WTO Members, including developed, developing and least-developed countries which address national IPR strategies to promote innovation, focusing in particular on the role of IPR in driving critical financing, commercialization and partnerships to bring ideas to market.

Bilateral and Regional Initiatives: The US works with many trading partners to strengthen IPR protection and enforcement through provisions of bilateral and regional agreements, including free trade agreements [FTAs]. In additions, Trade and Investment Framework Agreements (TIFAs) between the US and numerous trading partners around the world have facilitated discussions on enhancing IPR protection and enforcement.

Anti-Counterfeiting Trade Agreement [ACTA]: The US is working with Japan and other negotiating parties to bring ACTA into effect. The ACTA effort brings together a number of countries prepared to embrace strong IPR enforcement through a new agreement calling for cooperation, strong enforcement practices and a strong legal framework. ACTA signatories are Australia, Canada, Japan, South Korea, Mexico, Morocco, New Zealand, Singapore and the United States. ACTA comes into force 30 days after the deposit of instruments of ratification, acceptance or approval. ACTA intensifies efforts against the global proliferation of commercial-scale counterfeiting and piracy in the 21st century. The ACTA includes innovative provisions to deepen international cooperation and to promote strong enforcement practices, and will ultimately help sustain American jobs in innovative and creative industries.

Trade Preference Program Reviews: USTR in coordination with other agencies, reviews IPR practices in connection with the implementation of trade preference programs, such as the Generalized System of Preferences (GSP) program, and regional programs including the Caribbean Basin Economic

Recovery Act and the Caribbean Basin Trade Partnership Act.

Expanded International Cooperation: USTR, in coordination with other US Government will continue to engage with the trading partners in bilateral, regional and multilateral fora to improve the global IPR environment. In addition to the work described above, the US anticipates an engagement with its trading partners in trade-related initiatives such as the US-EU Summit, in the G-8, and in the Asia Pacific Economic Cooperation (APEC), Organization for Economic Cooperation and Development (OECD) and other multilateral and regional fora.

(c) Administration Strategy on Mitigating the Theft of US Trade Secrets

On 20 February 2013, the US Intellectual Property Enforcement Coordinator issued the Administration Strategy on Mitigating the Theft of US Trade Secrets. The Strategy highlights US efforts to combat the theft of trade secrets that could be used by foreign governments or companies to gain an unfair economic advantage by harming US innovation and creativity, including:

- a. Focus on diplomatic efforts to protect trade secrets overseas, which include sustained and coordinated engagement with trading partners, the use of trade policy tools (including through the use of the Special 301 Report), cooperation, and training, among others.
- b. Promoting voluntary best practices by private industry to protect trade secrets, including information security, physical security, and human resources policies.
- c. Enhancing domestic law enforcement operations, especially through the activities of the Department of Justice, Federal Bureau of Investigations, Department of Defense, and the National IPR Coordination Center.
- d. Improving domestic legislation to protect against trade secret theft as provided in the Theft of Trade Secrets Clarification Act, 2012, which provides for provisions in the Economic Espionage Act with respect to the theft of trade secret source code, and the Foreign and Economic Espionage Penalty Enhancement Act, 2012, which increased criminal penalties for economic espionage and
- e. Conducting public awareness campaigns and stakeholder outreach to encourage all stakeholders to be aware of the dangers of trade secret theft.

(d) Trademark Counterfeiting and Copyright Piracy

Trademark counterfeiting and copyright piracy continues on a global scale which involves mass production and far-reaching sales of a vast array of fake goods, including counterfeit semiconductors, medicines, health care products, food and beverages, automobile parts, such as air bags, aircraft parts, apparel and footwear, toothpaste, shampoos, razors, electronics, batteries, chemicals, sporting goods, motion pictures and music. Consumers, legitimate producers and governments are harmed by such rapid trademark counterfeiting and copyright piracy.

(e) Piracy over the Internet and Digital Piracy

Piracy over the net is an important concern in many US trading partners. Unauthorized retransmission of live

sports telecasts over the internet continues to pose a problem, significantly in China and websites that link to infringing content are exacerbating the problem. Additionally, piracy using new technologies such as media boxes is an emerging problem internationally. US copyright industries report growing problems with piracy using mobile telephones, tablets, flash drives and other mobile technologies. The distribution of the software through internet for circumvention of technological protection measures used by rights holders to protect their content.

(f) Trademarks and Domain Name Disputes

A growing area of concern is the protection of trademarks against unauthorized uses under country code top level domain name (ccTLD) extensions. US rights holders face problems of trademark infringement as well as losing valuable Internet traffic because of such uses. A related growing concern is that ccLTDs often lacks transparent and predictable uniform domain name dispute resolution policies (UDRPs). Effective UDRPs should assist in the quick and efficient resolution of these disputes.

(g) Government Use of Software

Under Executive Order 13103, the US Government agencies maintain procedures to ensure that only authorized business software is used. Pursuant to the directive, the USTR has undertaken an initiative to work with other governments to stop governmental use of illegal software. Considerable improvements remain to be made in countries like China, Costa Rica, India, Pakistan, Paraguay, Peru, Tajikistan, Turkey, Ukraine and Vietnam. The US urges trading partners to adopt and implement effective procedures to ensure legitimate governmental use of software.

(h) Intellectual Property and Health Policy

IPR are instrumental in providing an incentive for the development and marketing of new medicines. An effective, transparent and predictable IP system is necessary for both manufacturers of innovative medicines and manufacturers of generic medicines. The 2001 WTO Doha Declaration on the TRIPS Agreement and Public Health recognized the gravity of health issues faced by the least-developed countries especially those resulting from HIV/AIDS, tuberculosis, malaria, and other epidemics. The US stated that it respects trading partner's right to protect public health and in particular, to promote access to medicines for all and supports the vital role of the patent system in promoting the development and creation of new and innovative lifesaving medicines. It realizes that the TRIPS Agreement has sufficient flexibility to address serious health problem issues and the US respects its trading partners' right to grant compulsory licenses in a manner consistent with the provisions of the TRIPS Agreement. The US has been encouraging its trading partners to find a balance in addressing public health challenges and maintaining IPR systems which promotes innovation. The US supports WTO General Council Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health wherein the members are allowed to issue compulsory licenses to export pharmaceutical products to countries that cannot produce drugs for themselves under specific procedures. The General Council adopted a Decision in December 2005 that incorporated this solution into an amendment to the TRIPS Agreement and the US became the first WTO member to formally accept this amendment. The US hopes that at least 2-3rd of the WTO membership accept this amendment by the 31 December 2013 by which the amendment will come into effect.

(i) Supporting Pharmaceutical and Medical Device Innovation through Improved Market Access

Along with other mechanisms to support pharmaceutical and medical device companies face in many

countries, and to facilitate both affordable health care today and the innovation that assures improved health care tomorrow. Many measures have the potential to affect market access in the pharmaceutical and medical device sector. Discriminatory and non-transparent regulatory regimes, unnecessarily burdensome customs requirements, and other trade-barriers also hinder market access.

(j) Mechanisms of IPR protection

(a) Implementation of WTO TRIPS Agreement

The TRIPS Agreement is a significant achievement of the Uruguay Round which requires all the WTO members to provide certain minimum standards of IPR protection and enforcement. The TRIPS Agreement is the first broadly-subscribed multilateral IPR agreement which is subject to mandatory dispute settlement provisions. The least-developed countries have been given an extended period from January 2006 to July 2013 to implement their TRIPS Agreement obligations. The US shall participate actively in the WTO TRIPS Council's scheduled reviews of WTO members' implementation of the TRIPS Agreement and shall use the WTO's Trade Policy Mechanism to seek constructive engagement on issues related to TRIPS Agreement implementation.

(b) WTO Dispute Settlement

The US stated that it shall continue to monitor the resolution of disputes announced in the previous Special 301 reviews and that the most efficient and preferred manner of resolving concerns is through bilateral dialogue. The US provided that it will not be hesitant to use dispute resolution mechanism to resolve such disputes.

(c) Interagency Trade Enforcement Center

President Obama provided for the creation of the Interagency Trade Enforcement Center (ITEC) in the year 2012 to take a "whole-of-government" approach to monitor and enforce Americans' trade rights around the world. The ITEC uses expertise from across the federal government to assist in asserting US trade rights obtained through various international trade agreements and serves as the primary forum within the federal government for agencies to coordinate enforcement of obligations under international trade agreements, including the identification of unfair trade practices and barriers which involve IPR.

V. TRADE POLICY BY SECTOR

(A) Agriculture

(1) Trade in Agriculture

Agriculture exports in the US decreased in January 2013 to \$13,024,953,562 from \$13,039,630,997 in the December 2012. In February 2013 the US exports in agriculture decreased to \$12, 491, 057, 751 and further decreased to \$11, 681, 544, 357 in the month of March 2013. Agriculture imports increased in the month of January 2013 to \$8,914,670,549 from \$8,279,198,181 in the month of December 2012.¹²⁴

The US agriculture imports decreased to \$8,329,104,432 in the month of February 2013 and increased to \$9,456,517,672 in the month of March 2013. Agriculture trade balance decreased to

¹²⁴ USDA Economic Research Service, US Agricultural Trade Data Update, [http://www.ers.usda.gov/data-products/foreign-agricultural-trade-of-the-united-states-\(fatus\)/us-agricultural-trade-data-update.aspx#26483](http://www.ers.usda.gov/data-products/foreign-agricultural-trade-of-the-united-states-(fatus)/us-agricultural-trade-data-update.aspx#26483)

\$4,110,283,013 in the month of January 2013 from \$4,760,432,816 in the month of December 2012. The Trade Balance increased in the month of February and March by \$4,161,953,319 and \$2,225,026,685 respectively.¹²⁵

(2) Investments in Bioenergy Research and Development

The USDA announced \$25 million to fund research and development of the next-generation renewable energy and high-value bio-based products from a variety of biomass sources.¹²⁶ The investment in this field comes in the background of President Obama's plan to initiate clean bioenergy in America in order to reduce dependence on foreign oil.¹²⁷ Such investments will help boost local economies throughout the rural America while creating and sustaining good-paying jobs in order to move the nation toward a clean energy economy.¹²⁸ The following projects have been selected for the awards funded by USDA's National Institute of Food and Agriculture (NIFA) through Biomass Research and Development Initiative under the Farm Bill 2008:

1. Kansas State University, Manhattan, Kansas: \$5,078,932: To make oilseed crop camelina a cost-effective biofuel feedstock through an underlined process.¹²⁹
2. Ohio State University, Wooster, Ohio, \$6,510,183: To establish an anerobic digestion system for the production of liquid transportation fuels and electricity from animal manure, agricultural residues, woody biomass and energy crops.¹³⁰
3. Ceramatec, Inc., Salt Lake City, Utah, \$6,599,304: To convert lignocellulosic biomass to infrastructure-compatible renewable diesel, biolubricants, animal feed and biopower through a defined process.¹³¹
4. USDA-Agricultural Research Service, Eastern Regional Research Center, Wyndmoor, Pa., \$6,865,942. ARS Scientists shall develop an on-the-farm distributed technology for converting forest residues, horse manure, switchgrass and other perennial grasses into biofuels and high-value specialty

¹²⁵ USDA Economic Research Service, US Agricultural Trade Data Update, [http://www.ers.usda.gov/data-products/foreign-agricultural-trade-of-the-united-states-\(fatus\)/us-agricultural-trade-data-update.aspx#26483](http://www.ers.usda.gov/data-products/foreign-agricultural-trade-of-the-united-states-(fatus)/us-agricultural-trade-data-update.aspx#26483)

¹²⁶ United States Department of Agriculture, 'USDA Announces Investments in Bioenergy Research and Development to Spur New Markets, Innovation, and Unlimited Opportunity in Rural America', News Release, http://www.usda.gov/wps/portal/usda/usdahome?contentid=2013/01/0005.xml&navid=NEWS_RELEASE&navtype=RT&parentnav=LATEST_RELEASES&deployment_action=retrievecontent

¹²⁷ Id.

¹²⁸ Id.

¹²⁹ Camelina production will be incorporated into a cropping system with wheat-based crop rotations in Montana and Wyoming. Once harvested and processed, camelina oil and meal will be chemically converted to a variety of adhesives, coatings and composites. A life cycle analysis from agronomic production to end products will assess the feasibility of a nonfood oilseed as a sustainable resource with minimal negative impact on food crop systems or the environment and will provide needed information for decision-making on camelina production as a replacement for fallow in wheat-based systems.

¹³⁰ The novel anaerobic digestion system will be integrated with partial oxidation and Fisher-Tropsch technologies to produce gasoline. A life cycle analysis will incorporate thermodynamic principles to assess the resource use, energy/fuel production and the environmental impact of the conversion technologies.

¹³¹ New hybrids of energy sorghum will be developed, and other biomass resources include switchgrass and forestry residues. The biomass will be converted to hydrocarbons (molecules that are just like petroleum based hydrocarbons but derived from biomass) using innovative pretreatment, fermentation and electrochemical technologies. These hydrocarbons will be finished into premium synthetic bio-lubricants and biofuels via commercial petroleum refinery processes. A life cycle analysis will include energy efficiency impacts and assessment of impacts on rural development.

chemicals through a process.¹³²

The USDA has been supporting both public and private research in renewable energy and products in every American region to develop renewable energy markets, generating rural jobs, and decreasing America's dependence on foreign oil. Research in partnership with industry is enabling private sector partners to produce advanced ready-to-use liquid transportation and aviation biofuels.¹³³

The USDA has helped companies to build bio-refineries like the first ever commercial-scale cellulosic ethanol facilities and supporting farmers, ranchers, and businesses taking risk to pursue new opportunities in biofuels.¹³⁴ More than 130 biodiesel and ethanol projects which are funded by USDA are currently producing almost 3.7 billion gallons of biodiesel and ethanol annually, enough fuel- in equivalence to gasoline- to keep five million vehicles in the traffic.¹³⁵

(B) Services

(i) Financial Services

(1) Finance and Insurance

According to the US Census Bureau, the US finance and insurance revenue for the first quarter of 2013 was \$873.3 billion. It increased from the fourth quarter of 2012 and increased by 1.8% from the first quarter of 2012.¹³⁶

(2) Investment Bank Advisory Services

The first quarter of 2013 was a slow period for advisory services as provided by the fact that the biggest investment banks of the US completed M&A deals worth \$489 billion across the globe, which is 30% less [\$667 billion] in the fourth quarter 2012. This also reflects in the advisory fees for the banks this quarter, which has declined considerably as compared to the previous quarter.

The chart below presents that the Goldman Sachs led the top rank among M&A advisers for eighth consecutive quarter. Goldman also ranked third in the M&A advisory industry for the first quarter of 2013 after Morgan, Stanley and Barclays in terms of market share even though it generated twice as much through this business than its nearest competitor. This provides that companies more often than not hire the Goldman Sachs as a lead adviser, which allows it to charge a larger share of fees than its competitor. Except for Goldman Sachs, all other banks generated lower M&A for the quarter as compared to the last quarter of 2012 which will change after the M&A market recovers from its current lows.¹³⁷

¹³²The process will be implemented at on-the-farm scale using a patent-pending unit that will mimic the petroleum industry's catalytic cracking process. The project integrates a life cycle assessment from collection and handling of the biomass to end products and will use thermodynamic principles to assess its sustainability.

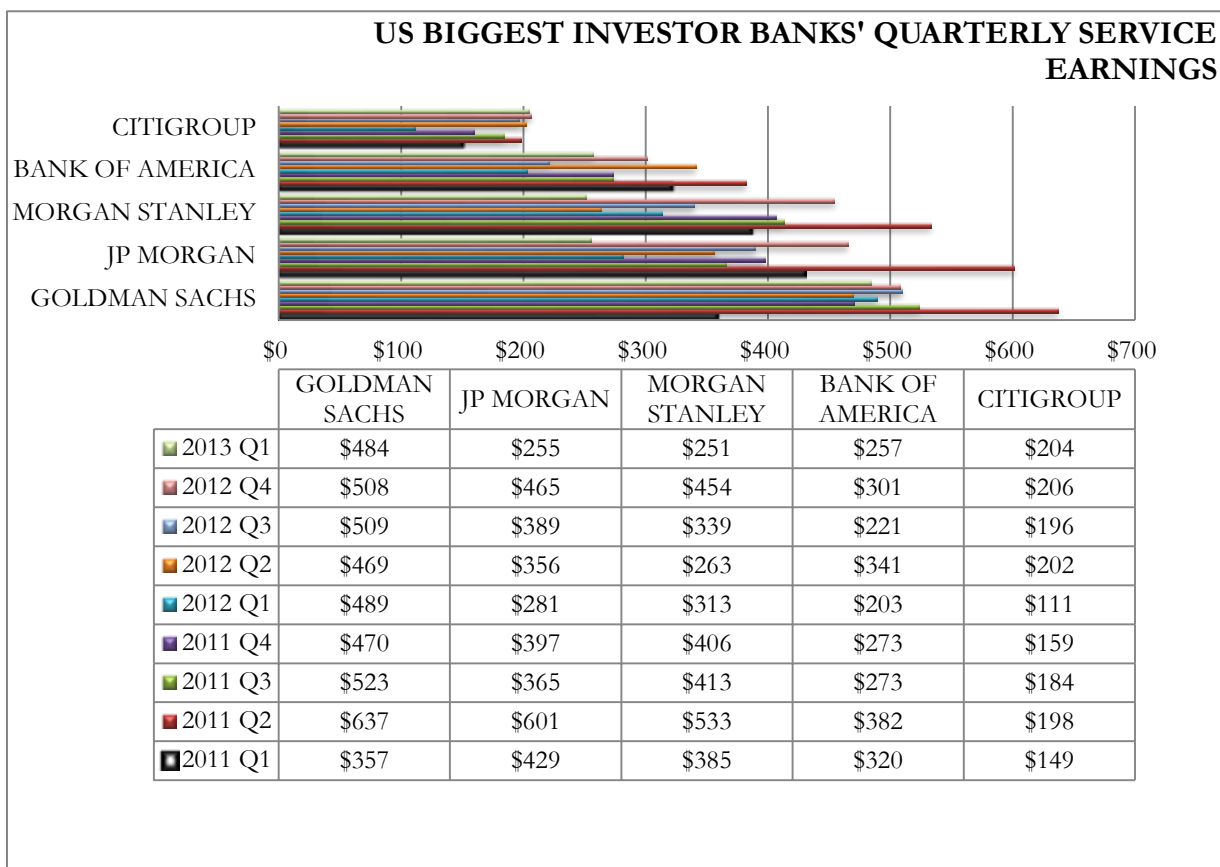
¹³³ Id.

¹³⁴ Id.

¹³⁵ Id.

¹³⁶ DOC, US Census Bureau News, 'Quarterly Estimates for selected service industries 1st quarter 2013', <http://www2.census.gov/services/qss/2013/qssq1-13pr.pdf>

¹³⁷ Trefis, Q1 2013 US Investment Bank Round-Up: Advisory Services, <http://www.trefis.com/stock/gs/articles/183290/q1-2013-u-s-investment-bank-round-up-advisory-services/2013-05-01>



Source: Trefis.com

(ii) Information Services

According to the US Census Bureau the US information sector revenue for the first quarter was \$309.3 billion [adjusted for seasonal variation but not for price changes], which is not quite different from the fourth quarter of 2012 but is up by 4.3% from the first quarter of 2012.¹³⁸

(iii) Professional, scientific, and technical services

According to the US Census Bureau the US professional, scientific and technical services revenue for the first quarter of 2013 was \$366.6 billion [adjusted for seasonal variation but not for price changes]. It decreased 1.0% from the previous quarter [Q4 2012] and increased by 0.9% from the first quarter of 2012.¹³⁹

(iv) Administrative and support and waste management and remediation services

According to the US Census Bureau, the US administrative and support and waste management and remediation services for the first quarter of 2013 was \$176.3 billion [adjusted for seasonal variation but not for price changes]. It decreased 2.4% from the fourth quarter of 2012 and decreased by 1.4% from the first quarter of 2012.¹⁴⁰

(v) Utilities services [excluding government-owned]

According to the US Census Bureau, the revenue for the US utilities services for the first quarter of 2013 was

¹³⁸ DOC, US Census Bureau News, 'Quarterly Estimates for selected service industries 1st quarter 2013', <http://www2.census.gov/services/qss/2013/qssq1-13pr.pdf>

¹³⁹ Id.

¹⁴⁰ Id.

\$135.3 billion[adjusted for seasonal variation but not for price changes]. It increased by 8.3% from the fourth quarter of 2012 and increased by 3.0% from the first quarter of 2012.¹⁴¹

(vi) Transportation and warehousing services

According to the US Census Bureau, the US transportation and warehousing revenue for the first quarter of 2013 was \$189.4 billion[adjusted for seasonal variation but not for price changes]. It decreased by 3.4% from the fourth quarter and increased by 2.8% from the first quarter of 2012.¹⁴²

(vii)Real estate and rental and leasing services

According to the US Census Bureau, the US real estate and rental and leasing revenue for the first quarter of 2013 was \$113.5 billion[adjusted for seasonal variation but not for price changes]. It decreased by 4.2% from the fourth quarter of 2012.¹⁴³

(viii) Educational services

According to the US Census Bureau, the US educational services revenue for the first quarter of 2013 was \$15.4billion[adjusted for seasonal variation but not for price changes]. It increased by 3.6% from the fourth quarter of 2012 and decreased by 1.2% from the first quarter of 2012.¹⁴⁴

(ix) Health care and social assistance

According to the US Census Bureau, the US health care and social assistance revenue for the first quarter of 2013 was \$526 billion[adjusted for seasonal variation but not for price changes]. It increased 0.1% from the fourth quarter of 2012 and increased by 2.3% from the first quarter of 2012.¹⁴⁵

(x) Arts, entertainment, and recreation

According to the US Census Bureau, the US arts, entertainment and recreation for the first quarter of 2013 was \$46.6 billion[adjusted for seasonal variation but not for price changes]. It decreased by 6.9% from the fourth quarter of 2012 and increased by 0.2% from the first quarter of 2012.¹⁴⁶

(xi) Other services (except public administration)

According to the US Census Bureau, the revenue of other services except public revenue for the first quarter of 2013 was \$106.8 billion[adjusted for seasonal variation but not for price changes]. It decreased by 4.3% from the fourth quarter of 2012 and increased by 2.1% from the first quarter of 2012.¹⁴⁷

VI. WTO UPDATES

During the review quarter there were two specific cases filed by the US against India and Indonesia. The US filed a dispute consultation with India on its Jawaharlal Nehru National Solar Mission program for violation of WTO obligations by providing domestic-content requirement. Whereas, the dispute against Indonesia relates to the US' consultations with Indonesia concerning certain measures as import licensing imposed on the imports of horticultural products, animals and animal-products from Indonesia. [See **Annexure E**]

¹⁴¹ Id.

¹⁴² Id.

¹⁴³ Id.

¹⁴⁴ Id.

¹⁴⁵ Id.

¹⁴⁶ Id.

¹⁴⁷ Id.

VII. ANNEXURES

A. RULES OF ORIGIN NOTIFICATIONS

United States – Chile Free Trade Agreement	<i>Chapter 3: National Treatment and Market Access for Goods, Section G: Textiles and Apparel</i> <i>Chapter 4: Rules of Origin and Origin Procedures</i> <i>Annex 4.1: Specific Rules of Origin</i>
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	<i>United States – Chile Free Trade Agreement Implementation Act (Public Law 108-77)</i> <i>General Note 26 to the United States Harmonized Tariff Schedule</i>
United States – Australia Free Trade Agreement	<i>Chapter 3: Rules of Origin</i> <i>Annex 3-A: Product-Specific Rules of Origin</i> <i>United States – Singapore Free Trade Agreement Implementation Act (Public Law 108-78)</i> <i>General Note 25 to the United States Harmonized Tariff Schedule</i>
United States – Australia Free Trade Agreement	<i>Chapter 4: Textiles and Apparel</i> <i>Chapter 5: Rules of Origin</i> <i>Annex 4-A: Textile or Apparel Specific Rules of Origin</i> <i>Annex 5-A: Specific Rules of Origin</i> <i>United States – Australia Free Trade Agreement Implementation Act (Public Law 108-286)</i> <i>General Note 28 to the United States Harmonized Tariff Schedule</i>
United States- Morocco Free Trade Agreement	<i>Chapter 4: Textiles and Apparel</i> <i>Chapter 5: Rules of Origin</i> <i>Annex 4-A: Rules of Origin for Textile or Apparel Goods</i> <i>Annex 5-A: Certain Product-Specific Rules of Origin</i> <i>Side Letter on Rules of Origin</i> <i>United States – Morocco Free Trade Agreement Implementation Act (Public Law 108-302)</i> <i>General Note 27 to the United States Harmonized Tariff Schedule</i>
United States – Bahrain Free Trade Agreement	<i>Chapter 3: Textiles and Apparel</i> <i>Chapter 4: Rules of Origin</i> <i>Annex 3-A: Rules of Origin for Textile or Apparel Goods</i> <i>Annex 4-A: Certain Product-Specific Rules of Origin</i> <i>Side Letter on Rules of Origin</i> <i>United States – Bahrain</i>
Central America – Dominican Republic – United States Free Trade Agreement	<i>Chapter 3: National Treatment and Market Access for Goods, Section G: Textiles and Apparel</i> <i>Chapter 4: Rules of Origin and Origin Procedures</i> <i>Annex 4.1: Specific Rules of Origin</i> <i>Annex 4.6: Exceptions to Article 4.6</i> <i>Dominican Republic Central America – United States Free Trade Agreement Implementation Act (Public Law 109-53)</i> <i>General Note 29 to the United States Harmonized Tariff Schedule</i>
United States – Oman Free Trade Agreement	<i>Chapter 3: Textiles and Apparel</i> <i>Chapter 4: Rules of Origin</i> <i>Annex 3-A: Rules of Origin for Textiles or Apparel Goods</i> <i>Annex 4-A: Certain Product-Specific Rules of Origin</i> <i>United States – Oman Free Trade Agreement Implementation Act (Public Law 109-283)</i> <i>General Note 31 to the United States Harmonized Tariff Schedule</i>
United States – Peru Trade Promotion Agreement	<i>Chapter 3: Textiles and Apparel</i> <i>Chapter 4: Rules of Origin and Origin Procedures</i> <i>Annex 3-A: Textile and Apparel Specific Rules of Origin</i> <i>Annex 4.6: Exceptions to Article 4.6</i> <i>United States – Peru Trade Promotion Agreement Implementation Act (Public Law 110-138)</i> <i>General Note 32 to the United States Harmonized Tariff Schedule</i>

<p>United States – Korean Free Trade Agreement</p>	<p><i>Chapter 4: Textiles and Apparel</i> <i>Chapter 6: Rules of Origin and Origin Procedures</i> <i>Annex 4-A: Specific Rules of Origin for Textile or Apparel Goods</i> <i>Annex 6-A: Specific Rules of Origin</i> <i>Annex 6-B: Exceptions to Article 6.6</i> <i>United States – Korea Free Trade Agreement Implementation Act (Public Law 112-41)</i> <i>General Note 33 to the United States Harmonized Tariff Schedule</i></p>
<p>United States – Colombia Trade Promotion Agreement</p>	<p><i>Chapter 3: Textiles and Apparel</i> <i>Chapter 4: Rules of Origin and Origin Procedures</i> <i>Annex 3-A: Textile and Apparel Specific Rules of Origin</i> <i>Annex 4.1: Specific Rules of Origin</i> <i>Annex 4.6: Exceptions to Article 4.6</i> <i>United States – Colombia Trade Promotion Agreement Implementation Act (Public Law 112-42)</i> <i>General Note 34 to the United States Harmonized Tariff Schedule</i></p>
<p>United States – Panama Trade Promotion Agreement</p>	<p><i>Chapter 3: National Treatment and Market Access for Goods, Section G: Textiles and Apparel</i> <i>Chapter 4: Rules of Origin and Origin Procedures</i> <i>Annex 4.1: Specific Rules of Origin</i> <i>Annex 4.6: Exceptions to Article 4.6</i> <i>United States – Panama Trade Promotion Agreement Implementation Act (Public Law 112-43)</i> <i>General Note 35 to the United States Harmonized Tariff Schedule</i></p>

Source: WTO Rules of Origin Notification [G/RO/N/88]

B. TECHNICAL BARRIERS TO TRADE MEASURES

Document	Aim and product	Measure	Implementing authority and date
G/TBT/N/USA/782	Protection of the environment Aircraft gas turbine engines exhaust emissions (HS 8411;	This measure provides standards, which require the turbine engine, powered airplanes to comply with the revised standards for oxides of	Federal Aviation Administration (800) and 1 March 2013.

	ICS 13.020, 49.050)	nitrogen and test procedures for exhaust emissions based on International Civil Aviation Organization standards and for the identification and marking requirements for engine.	
G/TBT/N/USA/788	Protection of the environment. Microwave ovens (HS 8514.20; ICS: 13.020, 97.040)	Revision of the test procedures for microwave ovens established under the Energy Policy and Conservation Act proposes amendments that would add provisions for measuring the active mode energy use for microwave ovens, including both microwave-only ovens and convection microwave ovens. There are regulations for measuring the energy use of the microwave-only cooking mode for both microwave-only ovens and convection microwave ovens based on the testing methods in the latest draft. Other such regulatory measures for energy measurement are being put in place.	Office of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE) and the final date for comments 22 April 2013.
G/TBT/N/USA/789	Protection of the environment. Furnaces and Boilers	It proposes to revise its test procedure for residential furnaces and boilers established under the Energy Policy and Conservation Act. This rulemaking would adopt needed equations, applicable to certain classes of these products, which were omitted from the relevant industry standard incorporated by reference in the DOE test procedure.	Officer of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE) and the final date of comments 22 April 2013.
G/TBT/N/USA/791	Protection of the environment. Fuels (HS 2710; ICS: 13.020, 75.160)	By section 211(o) of the Clean Air Act, the Environmental Protection Agency is required to set the renewable energy standards to ensure that the applicable volumes of renewable fuel specified in the statute are used. ¹⁴⁸	Environmental Protection Agency (EPA) (808) and the final date for comments is 25 March 2013.

¹⁴⁸ However, the statute specifies that EPA is to project the volume of cellulosic biofuel production for the upcoming year and must base the cellulosic biofuel standard on that projected volume if it is less than the applicable volume set forth in the Act. EPA is today proposing a projected cellulosic biofuel volume for 2013 that is below the applicable volume specified in the Act. EPA is proposing that the applicable volumes of advanced biofuel and total renewable fuel would remain at the statutory levels for 2013. Finally, today's action also proposes annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuels that would apply to all gasoline and diesel produced or imported in year 2013.

G/TBT/N/USA/794	Protection of the environment. Renewable fuel standards (RFS) (HS 2710; ICS 13.020, 75.160)	Under the Renewable Fuel Standard (RFS) program the producers and importers of renewable fuel generate Renewable Identification Numbers (RINs) that are used by petroleum refiners and importers to demonstrate compliance with their renewable fuel volume obligations. However, several cases of fraudulently generated RINs, however, have led to inefficiencies and a significant reduction in the overall liquidity in the RIN market. It has resulted in greater difficulty for smaller renewable fuel producers to sell their RINs. This measure promotes reasonable oversight of RIN generation and assures use of the required renewable fuel volumes. ¹⁴⁹	Environmental Protection Agency (EPA) (811) and the final date for comments is 18 April 2013.
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Source: TBT Notification Management System

C. SANITARY AND PHYTO-SANITARY MEASURES¹⁵⁰

Document	Aim	Measure	Target country, Product covered, Implementing agency and final date for comments
G/SPS/N/USA/2512	Food safety, animal health, plant protection, protect humans from animal/plant pest or disease and to protect	Collection of new information on the imports of undernatured inedible products like meat, poultry and egg products. This	All trading partners of the US, the US Department of Agriculture, Food Safety and Inspection Service, and 1 April 2013.

¹⁴⁹ Under the Renewable Fuel Standard (RFS) program, producers and importers of renewable fuel generate Renewable Identification Numbers (RINs) that are used by petroleum refiners and importers to demonstrate compliance with their renewable fuel volume obligations. Several cases of fraudulently generated RINs, however, have led to inefficiencies and a significant reduction in the overall liquidity in the RIN market. The result has been greater difficulty for smaller renewable fuel producers to sell their RINs. Today's action proposes additional regulatory provisions that would promote greater liquidity in the RIN market in a way that assures reasonable oversight of RIN generation and assures use of the required renewable fuel volumes. The proposal includes

a voluntary quality assurance program and related provisions intended to meet these goals. The proposed program also includes elements designed to make it possible to verify the validity of RINs for all of 2013. Additionally, we are proposing a number of new regulatory provisions to ensure that RINs are retired for all renewable fuel that is exported and to address RINs that become invalid downstream of a renewable fuel producer.

¹⁵⁰ <http://spsims.wto.org/web/pages/search/notification/regular/Search.aspx>

	territory from other damage from pest.	measure is based upon statutory regulations ¹⁵¹ of the US.	
G/SPS/N/USA/2513	Food Safety, animal health, plant protection, protects humans from animal/plant pest or disease and protect territory from damage from pests.	Amendments to the fruits and vegetables regulations to allow the importation of avocados from continental Spain into the US. Spain is required to comply with the production, packaging, sanitation and inspection for quarantine pests rules. Consignments are required to be accompanied by a phytosanitary certificate with an additional declaration of anti-pest production promise.	Spain, Animal and Health Inspection Service and 1 April 2013.
G/SPS/N/USA/2514	Food safety, animal health, plant protection, protect humans from animal/plant pest or disease and to protect territory from other damage from pests.	Amendment to the fruits and vegetables regulations to allow the importation into the US of fresh apricots from the continental Spain. The entry of fruits from Spain are conditional upon regulatory measures ¹⁵² .	Spain, Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture and 1 April 2013.
G/SPS/N/USA/2518	Food safety, animal health, plant protection, protect humans from animal/plant or disease and protect territory from other damage from pests.	Amendments to the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit as well as Citrus hybrids and the Citrus-related genus Fortunella from Uruguay into the continental United States.	Uruguay, Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture and 8 April 2013.

¹⁵¹The Federal Meat Inspection Act (FMIA) (21 U.S.C. 620) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 466) prohibit the importation of meat and poultry products into the United States if such products are adulterated or misbranded and unless they comply with all the inspection and other requirements of the Acts and regulations as are applied to domestic products. The Egg Products Inspection Act (EPIA) (21 U.S.C. 1046) prohibits the importation of egg products unless they were processed under an approved continuous inspection system of the government of the foreign country of origin and comply with the other pertinent requirements of the Act and regulations as are applied to domestic products. (<http://www.gpo.gov/fdsys/pkg/FR-2012-11-27/html/2012-28751.htm>)

¹⁵²The Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture is proposing to amend the fruits and vegetables regulations to allow the importation into the United States of fresh apricots from continental Spain. As a condition of entry, fresh apricots from continental Spain would have to be produced in accordance with a systems approach that would include registration of production locations and packinghouses, pest monitoring, sanitary practices, chemical and biological controls, and phytosanitary treatment. The fruit would also have to be imported in commercial consignments, with each consignment identified throughout its movement from place of production to port of entry in the United States. Consignments would have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of Spain certifying that the fruit is free from all quarantine pests and has been produced in accordance with the systems approach. This proposed rule would allow for the importation of fresh apricots from continental Spain into the United States while continuing to provide protection against the introduction of quarantine pests.

		The entry of fruits depend upon regulatory measures ¹⁵³ .	
G/SPS/N/USA/2520	Food safety, animal health, plant protection, protect humans from animal/plant pest or disease, protect territory from other damage from pests.	Amendments in the regulations regarding the importation of horses from countries affected with contagious equine metritis (CEM) by incorporating an additional certification requirement for imported horses 731 days of age or less and adding new testing protocols for test mares and imported stallions and mares more than 731 days of age. ¹⁵⁴	All trading partners of the US, Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture and the rule is effective on 13 March 2013.
G/SPS/N/USA/2521	Food safety, animal health, plant protection, protect humans from animal/plant pest or disease and protect territory from other damage from pests.	Amendment to the regulations on importing plants for planting included Turkey to the list of countries from which the importation of restricted articles of <i>Chrysanthemum</i> spp., <i>Leucanthemella serotipa</i> and <i>Nipponanthemum nipponicum</i> into the US is prohibited due to the presence of white rust of <i>Chrysanthemum</i> . The other such regulatory measures ¹⁵⁵	All trading partners, Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture and 15 April 2013.

¹⁵³ The Animal and Plant Health Inspection Service (APHIS) of the US Department of Agriculture is proposing to amend the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit, as well as *Citrus* hybrids and the *Citrus*-related genus *Fortunella*, from Uruguay into the continental United States. As a condition of entry, the fruit would have to be produced in accordance with a systems approach that would include requirements for importation in commercial consignments, pest monitoring and pest control practices, orchard sanitation and packinghouse procedures designed to exclude the quarantine pests, and treatment. The fruit would also be required to be accompanied by a phytosanitary certificate issued by the national plant protection organization of Uruguay with an additional declaration confirming that the fruit is free from all quarantine pests and has been produced in accordance with the systems approach. This action would allow for the importation of fresh citrus fruit, including *Citrus* hybrids and the *Citrus*-related genus *Fortunella*, from Uruguay while continuing to provide protection against the introduction of plant pests into the United States.

¹⁵⁴ This document revises certain CEM-testing requirements for imported stallions and mares, and for test mares, that were amended in the interim rule. The interim rule was necessary to provide additional safeguards against the introduction of CEM through the importation of affected horses. [<http://www.regulations.gov/#!documentDetail;D=APHIS-2008-0112-0024>]

¹⁵⁵ The Animal and Plant Health Inspection Service (APHIS) is proposing to amend the regulations on importing plants for planting to add Turkey to the list of countries from which the importation of restricted articles of *Chrysanthemum* spp., *Leucanthemella serotina*, and *Nipponanthemum nipponicum* into the United States is prohibited due to the presence of white rust of *Chrysanthemum*; to require permits for the importation of any seed that is coated, pelleted, or embedded in a substrate that obscures visibility; to provide for an alternate additional declaration on phytosanitary certificates that accompany articles imported from a country in which potato cyst nematodes are known to occur; to provide conditions for the importation of *Prunus* spp. articles from Canada that address the presence of plum pox potyvirus in that country; and to provide for the importation of *Dianthus* spp. (carnations) from the Netherlands. We are also proposing other changes to update and clarify the regulations and to improve their effectiveness. These changes are necessary to relieve restrictions that appear unnecessary, to update existing provisions, and to make the regulations easier to understand and implement.

		provide for certain prohibitions.	
G/SPS/N/USA/2502	Food safety, animal health, plant pesticides, protect humans from animals/plant pest or disease, protect territory from other damage from pests.	The Food and Drug Administration (FDA) proposed to amend the regulation for Current Good Manufacturing Practice In Manufacturing, Packaging or Holding Human Food (CGMPs) to modernize it and to add requirements for domestic and foreign facilities that are required to register under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to establish and implement hazard analysis and risk-based preventive controls for human food. FDA also proposed to revise the definitions in FDAs current regulation for Registration of Food Facilities to clarify the scope of the exemption from registration requirements provided by the FD&C Act for farms. FDA is taking this action as part of its announced initiative to revisit the CGMPS since they were last revised in 1986 and to implement new statutory provision in the FD&C Act. The proposed rule intends to build a food safety system for the future that makes modern, science, ad risk-based preventive controls the norm across all sectors of the food system. The proposed rule would apply to both domestic and foreign facilities. However, the proposed rule contains several exemptions.	All trading partners, Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): Human food under the jurisdiction of the US Food and Drug Administration. HS Code(s): 03, 04, 05, 07, 08, 09, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22; ICS Code(s): 65, 67; Food and Drug Administration, 16 May 2013 and the date of publication in the Federal Register 16 January 2013.
G/SPS/N/USA/2503	Food safety, animal health, plant protection, protect human from animal/plant pest or disease, protect territory from other damage from pests.	In order to minimize the risk of serious adverse health consequences or death from consumption of contaminated produce, the US Food and Drug Administration proposed to establish a science based minimum standards for the safe growing	All trading partners, Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): Fruits and vegetables grown for human consumption, sprouts. HS Code(s): 07, 08, 0708; ICS Code(s): 65, 67,

		<p>harvesting consumption. FDA is proposing these standards as part of our implementation of the FDA Food and Safety Modernization Act (FSMA). These standards would not apply to produce that is rarely consumed raw, produce for personal or on-farm consumption, or produce that is not a raw agricultural commodity. Produce which receives commercial processing that adequately reduced the presence of microorganisms of public health significance would be eligible for exemption from the requirements of this rule. The serious adverse health consequences or death, including those reasonably necessary to prevent the introduction of known or reasonably foreseeable biological hazards into or onto produce and to provide reasonable assurances that the produce is not adulterated on account of such hazards. The proposed rule would reduce foodborne illness associated with the consumption of contaminated produce.</p>	<p>67.080, 65.020, 65.040, 65.060. In effect, six month from the date of publication. Date of publication: 16 May 2013. Final date for comments 16 May 2013.</p>
G/SPS/N/USA/2507	<p>Food safety, animal health, plant protection, protect humans from animal/plant pest or disease, protect territory from other damage from pests.</p>	<p>The Animal and Plant Health Inspection Service (APHIS) has advised that the US is prepared for a pest risk analysis that evaluates the risks associated with the importation of fresh dates of the cultivar Barhi from Israel into the United States. Based on that analysis, an application of one or more designated phytosanitary measures will be sufficient to mitigate the pest risk. In document that describes a new treatment schedule for <i>Creatitis capitata</i> in Barhu dates. APHIS is making the pest risk assessment and treatment</p>	<p>All trading partners, Animal and Plant Health Inspection Service (APHIS), Product: Dates, Final date for comments : 11 March 2013.</p>

		evaluation and the evaluation of treatment document is available for public comments.	
G/SPS/N/USA/2508	Food safety, animal health, plant protection, protect humans from animal/plant pest or disease, protect territory from other damage from pests.	The US Food and Drug Administration (FDA) announced the availability of and requested comments on a document 'Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm'. The purpose of this draft is to provide a science based risk analysis of those activity/food combinations that would be considered low-risk. FDA conducted the draft RA to satisfy the requirements of the FDA Food Safety Modernization Act (FSMA) to conduct a science-based risk analysis and to consider the results to that analysis in rulemaking that is required by FSMA. FDA is using the results of the draft RA to propose to exempt food facilities that are small or very small businesses that are engaged only in specific types of on-farm manufacturing, processing, packing, or holding activities identified in the draft RA as low-risk activity/food combinations from the requirements of the Federal Food, Drug and Cosmetic Act (FD&C Act) for hazard analysis and risk-based preventive controls.	Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable): Human food under the jurisdiction of the US Food and Drug Administration. HS Code(s): 07, 08, 03, 04, 09, 10, 11, 12, 15, 16, 17, 18, 19, 20, 21, 22. Date of Publication: 16 January 2013 and last date for comments: 15 February 2013.
G/SPS/N/USA/2511	Food safety, animal health, plant protection, protect human from animal/plant or disease, protect territory from other damage from pests.	The Food Safety and Inspection Service (FSIS) is describing the new methodology it is employing to conduct the current equivalence verifications of the regulatory systems of countries that export meat, poultry, or processed egg products to the US. FSIS uses three-part approach:	All trading partners, US Department of Agriculture, Food Safety and Inspection Service; Meat, poultry, or processed egg products; Last day for comments 26 March 2013.

		<ul style="list-style-type: none"> a. Document reviews[Once in a year] b. On-site system audits [nce in every three years] c. Port-Of-Entry reinspections <p>This performance based approach helps the FSIS to direct its resources to foreign food regulatory systems that pose greater risk to public health compared to others; make its international program more consistent with its domestic inspection system; and improve the linkage between POE inspections and on-sire audits. As a result, FSIS is preventing unsafe imports from entering the US.</p>	
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Source: WTO SPS Notification Management System

C. ANTI-DUMPING AND COUNTERVAILING INVESTIGATIONS

Investigation No.	Matter Involved	Target Countries	Status of proceedings
731-TA-1206 (Preliminary)	Anti-Dumping investigation against diffusion-annealed, nickel-plated steel flat-rolled products from Japan.	Japan	The US Trade Commission provided a notice for the institution and commencement of preliminary phase antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of diffusion-annealed, nickel-plated steel flat-rolled products. The products are provided for primarily in subheadings 7210.90 and 7212.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value.

			Unless the Department of Commerce extends the time for initiation, the Commission must reach a preliminary determination in anti-dumping investigations in 45 days, or in the case by May 13, 2013. The Commission's views are due at Commerce within five business days thereafter, or by May 13, 2013. ¹⁵⁶
731-TA-1202-03 (Final)	Final Phase of an Anti-Dumping Investigation on the imports of Xanthan Gum from Austria and China	Austria and China	The US Trade Commission gave notice of the scheduling of the final phase of anti-dumping investigation to determine whether an industry in the US is materially injured or threatened with material injury, or the establishment of an industry in materially retarded by reason of less-than-fair-value imports from Austria and/or China of xanthan gum, provided for in subheading 3913.90.20 of the Harmonized Tariff Schedule of the United States. ¹⁵⁷ Hearing on the final phase of investigation: 23 May 2013 Call for more petitions from interested parties: 30 May 2013 Information made available by the Commission to the parties for comment: 13 June 2013 Call for final comments by parties: 17 June 2013
701-TA-350 and 731-TA-616 and 618	Determination by the US Trade Commission whether revocation of the countervailing duty order on corrosion-resistant carbon steel flat products from Korea and the anti-dumping duty orders on corrosion-resistant carbon steel flat products from Germany and Korea would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.	Germany and Korea	The US Trade Commission instituted these reviews on January 3, 2012 (77FR 301, January 4, 2012) and determined on April 9, 2012 that it would conduct full reviews (77 FR 24221, April 23, 2012). The United States International Trade Commission determined to revoke countervailing duty order on corrosion-resistant carbon steel flat products from Korea and the antidumping duty orders on corrosion-resistant carbon steel flat products from Germany and Korea as it would not lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. ¹⁵⁸ Commission's hearing: 9 January 2013 Commission's vote: 15 February 2013 Final Determination shall be transferred to

¹⁵⁶Federal Register/Vol. 78, No. 63/Tuesday, April 2, 2013] Notices, Diffusion-Annealed, Nickel-Plated Steel Flat-Rolled Products from Japan; Institution of Antidumping Duty Investigation and Scheduling of Preliminary Phase Investigation, [http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2013/nickel_plated_steel/preliminary/PDF/Nickle%20Plate%20\(P\)%20-%20Insitution%20notice%20\(78FR19734\).pdf](http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2013/nickel_plated_steel/preliminary/PDF/Nickle%20Plate%20(P)%20-%20Insitution%20notice%20(78FR19734).pdf)

¹⁵⁷Federal Register/Vol. 78, No. 39/Wednesday, February 27, 2013/Notices, Xanthan Gum from Austria and China; Scheduling of the Final Phase of an Antidumping Investigation, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2013/xanthan_gum_from_austria_and_china/final/PDF/2013-04505_Scheduling.pdf

¹⁵⁸ U.S. International Trade Commission, Corrosion-Resistant Carbon Steel Flat Products from Germany and Korea (Third Review) Publication 4388, March 2013, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2012/corrosion_resistant_carbon_steel_flat_products/PDF/pub4388.pdf

			Commerce on 5 March 2013
731-TA-1103 (Review)	Review on the revocation of antidumping duty order on certain activated carbon from China would be likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.	China	The US Trade Commission on the basis of the record developed in the subject five-year review the United States International Trade Commission determined that revocation of the antidumping duty order on certain activated carbon from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. ¹⁵⁹ Commission's vote: 8 February 2013 Final Determination by the Commission shall be transferred to the Commerce on 22 February 2013.
731-TA-1205 (Preliminary)	Anti-dumping and countervailing investigation against silica bricks and shapes from China	China	The US Trade Commission on the basis of record developed in the subject investigation that there is a reasonable indication that an industry in the US is materially injured by reason of imports from China of silica bricks and shapes provided for in subheading 6902.20.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the US at less than fair value (LTFV). ¹⁶⁰ Final Determination of the Commission shall be transferred to the Commerce on 8 January 2013.
701-TA-488 and 731-TA-1199-1200 (Final)	Anti-dumping and countervailing investigation against large residential washers from Korea and Mexico	Korea and Mexico	The US Trade Commission on the basis of record developed in the subject investigation determined that an industry in the United States is materially injured by reason of imports from Korea of large residential washers that the UDOC has determined are subsidized by the Government of Korea and sold in the US at less than fair value. The Commission determined that an industry in the US is materially injured by reason of imports from Mexico of large residential washers that the Commerce has determined are sold in the US at less than fair value. The products subject to these investigations are provided for in subheading 8450.20.00 of the Harmonized Tariff Schedule of the US, and imported under statistical reporting number 8450.20.0090. Products subject to these investigations may also be imported under HTS subheadings 8450.11.00, 8450.90.20 or 8450.90.60. The US Trade Commission sent the investigations to the Secretary of Commerce on 8 February 2013. ¹⁶¹ Dumping Margins by the Commerce:

¹⁵⁹ U.S. International Trade Commission, Certain Activated Carbon from China, Investigation (Review), Publication 4381, February 2013, http://www.usitc.gov/publications/701_731/pub4381.pdf

¹⁶⁰ U.S. International Trade Commission, Silica Bricks and Shapes from China, Preliminary Investigation, Publication 4369, January 2013, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2012/silica_bricks/preliminary/PDF/pub4369.pdf

¹⁶¹ Federal Register/Vol. 78, No. 31/Thursday, February 14, 2013/Notices, Large Residential Washers from Korea and Mexico, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2012/washers/final/PDF/washers%20determinations.pdf

			<p>Korea Daewoo 82.41 (Dumping margin <i>ad valorem</i>) LG 13.02 (Dumping margin <i>percent ad valorem</i>) Samsung 9.29 (Dumping margin <i>percent ad valorem</i>) All others 11.86 (Dumping margin <i>percent ad valorem</i>)</p> <p>Mexico Electrolus 36.52 (Dumping margin <i>percent ad valorem</i>) Samsung 72.41 (Dumping margin <i>percent ad valorem</i>) Whirlpool 72.41 (Dumping margin <i>percent ad valorem</i>) All others 36.52 (Dumping margin <i>percent ad valorem</i>)¹⁶²</p>
731-TA-1197 (Final)	Anti-dumping investigation against SWG hangers from Taiwan and, Vietnam and countervailing investigation against SWG hangers from Vietnam.	Taiwan and Vietnam	<p>The US Trade Commission on the basis of record determined that an industry in the US is materially injured by reason of imports of steel wire garment hangers from Taiwan provided for in the subheading 7326.20.00 of the Harmonized Tariff Schedule of the United States, that the US Department of Commerce has determined are sold in the US at less than fair value.</p> <p>Preliminary dumping margin (percent):</p> <p><u>Taiwan</u> Golden Canyon Ltd. 69.98 Taiwan Hanger Manufacturing Co., Ltd 125.43 All others 69.98</p> <p><u>Vietnam</u> TJ Group 135.81 CTN Limited Company 135.81 Ju Fu Co., Ltd. 135.81 Triloan Hangers, Inc 135.81 All others 187.51¹⁶³</p> <p>Final Determination of the Commission on Vietnam shall be due to the Commerce on 28 January 2013.</p>
701-TA-486 and 731-TA-1195-1196 (Final)	Anti-dumping and countervailing duties on utility scale wind towers from China and Vietnam	China and Vietnam	<p>The US Trade Commission on the basis of the record in the investigations determined that an industry in the US is materially injured or threatened with material injury by reason of imports of utility scale wind towers from China and Vietnam. The products are provided for in subheading 7308.20.00 of the Harmonized Tariff Schedule of the US and are subsidized by the Government of China to be sold in the US at less than fair value (LTFV).¹⁶⁴ The investigation ended on 18 January 2013.</p> <p><u>China</u> <u>Exporter-Producer</u></p>

¹⁶² U.S. International Trade Commission, Certain Large Residential Washers from Korea and Mexico, Publication 4378, February 2013, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2012/washers/final/PDF/pub4378.pdf

¹⁶³ U.S. International Trade Commission, Steel Wire Garment Hangers from Taiwan, Final Investigation, Publication 4363, November 2012, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2012/hangers/final/PDF/hangers%20pub.pdf

¹⁶⁴ U.S. International Trade Commission, Utility Scale Wind Towers from China and Vietnam, Final Investigation, Publication 4372, February 2013, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2012/wind_towers/final/PDF/pub4372.pdf

			<p><u>Final dumping margin (percent)</u></p> <p>Chengxi Shipyard Co., Ltd.-Chengxi Shipyard Co., Ltd (47.59)</p> <p>Titan Wind Energy (Suzhou) Co.-Ltd Titan (Lianyungang) Metal Product Co., Ltd (44.99)</p> <p>Titan Wind Energy (Suzhou) Co.,-Ltd Titan Wind Energy (Suzhou) Co., Ltd (44.99)</p> <p>CS Wind Corporation -CS Wind China Co., Ltd (46.38)</p> <p>Guodian United Power Technology Baoding Co., Ltd -Guodian United Power Technology Baoding Co., Ltd (46.38)</p> <p>Sinovel Wind Group Co., Ltd-Sinovel Wind Group Co., Ltd (46.38)</p> <p>All others (70.63)</p> <p><u>Vietnam</u></p> <p>Exporter-Producer</p> <p>The CS Wind Group (CS Wind Vietnam Co., Ltd. and CS Wind Corporation)-The CS Wind Group (51.50)</p> <p>All others (58.49)</p> <p>Commission's vote shall be due on 18 January 2013. Final Determinations by the Commission shall be transferred to Commerce on 8 February 2013.</p>
731-TA-739	Non-revocation of anti-dumping measures against clad steel plate from Japan	Japan	<p>The US Trade Commission on the basis of the record determined that the revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the US within a foreseeable time.¹⁶⁵</p> <p>Commission's vote shall be due on: 15 January 2013. Final Determinations of the Commission shall be transferred to Commerce on 28 January 2013.</p>

¹⁶⁵ U.S. International Trade Commission, Clad Steel Plate from Japan, Investigation (Third Review) Publication 4370, January 2013, http://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2012/clad_steel_plate_from_japan/PDF/PUB4370.pdf

E.WTO DISPUTES

Disputes during the quarter

Name	Description
DS456: India-Certain Measures Relating to Solar Cells and Solar Modules	The US filed request for consultations with India concerning certain measures relating to domestic content requirements under the Jawaharlal Nehru National Solar Mission (NSM) for solar cells and solar modules. The subject measure is inconsistent with Article III:4 of the GATT 1994, Article 2.1 of the TRIMs Agreement and Articles 3.1(b), 3.2, 5(c), 6.3(a) and (c) and 25 of the SCM Agreement. The US claims that the measure by India nullifies or impair the benefits accruing to the US directly or indirectly under the

	cited agreements. On 13 February 2013, Japan requested to join the consultations and on 21 February 2013, Australia requested to join the consultations. ¹⁶⁶
DS455: Indonesia-Importation of horticultural products, animals and animal products	On 10 January 2013, the US requested consultations with Indonesia concerning certain measures it imposes on the importation of horticultural products, animals and animal products. The US claimed that the measures are inconsistent with Article X:3(a) and XI:1 of the GATT 1994; Article 4.2 of the Agreement on Agriculture and Article 1.2, 3.2 and 3.3 of the Import Licensing Agreement. On 24 January 2013, Australia, Canada and the EU requested to join the consultations. Subsequently, Indonesia notified the DSB that it has accepted the requests of Australia, Canada and the EU to join the consultations. ¹⁶⁷

DS444: Argentina-Measures Affecting the Importation of Goods	<p>The US filed on 21 August 2012 to request consultations with Argentina concerning certain measures imposed by Argentina on the importation of goods. The US challenged:</p> <ol style="list-style-type: none"> The requirement to present for approval of a non-automatic import licence Non-automatic licences required in the form of Certificados de Importación (CIs) for the importation of certain goods Requirements imposed on importers to undertake certain trade-restrictive commitments The alleged systematic delay in granting import approval or refusal to grant such approval or the grant of import subject to importers undertaking to comply with certain allegedly trade-restrictive commitments. The alleged systematic delay in granting import approval or refusal to grant such approval or the grant of import approval subject to importers undertaking to comply with certain allegedly trade-restrictive commitments. <p>The US claims that the subject measure appear to be inconsistent with Article III:4, X:1, X:2, X:3(a) and XI:1 of the GATT 1994; Article 2 of the TRIMs Agreement; Articles 1.2, 1.3, 1.4, 3.2, 3.3, 3.4, 3.5, 5.1, 5.2, 5.3 and 5.4 of the Agreement on Import Licensing Procedures and Article 11 of the Safeguards Agreement. On 28 January 2013, the DSB established a single panel pursuant to Article 9.1 of the DSU to examine this dispute. ¹⁶⁸</p> <p>Third Parties: Australia, Canada, China, Ecuador, EU, Guatemala, India, Israel, Japan, Korea, Republic of Norway, Saudi Arabia, Switzerland; Chinese Taipei; Thailand; Turkey and the US.</p>
DS440: China – Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States	On 5 July 2012, the US requested consultations with China with regard to Notice No. 20 [2011] and Notice No. 84[20122] of the Ministry of Commerce of the People’s Republic of China [MOFCOM] imposing anti-dumping and countervailing duties on certain automobiles from the US, including any and all annexes. The US alleges that these measures appear to be inconsistent with the Anti-dumping Agreement and the SCM Agreement and the GATT 1994. On 17 September 2012, the US requested the establishment of a panel. At its meeting on 28 September 2012, the DSB deferred the establishment of a panel. On 23 October 2012, the DSB established a panel. Colombia,

¹⁶⁶ http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds456_e.htm

¹⁶⁷ WTO Dispute Settlement, Indonesia-Importation of horticultural products, animals and animal products, DS455 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds455_e.htm

¹⁶⁸ WTO Dispute Settlement, Argentina-Measures Affecting the Importation of Goods, DS444, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds444_e.htm

	the EU, India, Japan, Korea, Oman, Saudi Arabia and Turkey reserved their third party rights. On 1 February 2013, the US requested the Director-General to determine the composition of the panel. ¹⁶⁹
DS430: India-Measures Concerning the Importation of Certain Agricultural Products from the United States	On 6 March 2012, the US requested consultations with India with respect to the prohibitions imposed on the importation of various agricultural products from the US purportedly because of concerns related to Avian Influenza. The measures at issue are: the Indian Livestock Importation Act, 1898 (9 f 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. The US claims that the measures appear to be inconsistent with the SPS Agreement and the GATT Agreement. The US claims that the measures appear to nullify or impair the benefits accruing to the US directly or indirectly under the cited agreements. On 15 March 2012, Colombia requested to join the consultations. On 11 May 2012, the US requested the establishment of a panel. At its meeting on 24 May 2012, the DSB deferred the establishment of a panel. At its meeting on 25 June 2012, the DSB established a panel. China, Colombia, Ecuador, the EU, Guatemala, Japan and Viet Nam reserved their third party rights. Subsequently, Argentina, Australia and Brazil reserved their third-party rights. On 7 February 2013, the US requested the Director-General to determine the composition of the panel. On 18 February 2013, the Director-General composed the panel. ¹⁷⁰
DS414: China-Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States	<p>On 15 September 2010, the United States requested consultations with China with respect to measures imposing countervailing duties and anti-dumping duties on grain oriented flat-rolled electrical steel (GOES) from the US as set forth in Ministry of Commerce of China [MOFCOM] Notice No. 21 [2010], concluding its annexes. The subsidy that China determined to confer a benefit are the "Buy America" provisions of the American Recovery and Reinvestment Act of 2009 and also State government procurement laws. The US alleged that China appears to be acting inconsistently with its obligations under Articles of the SCM Agreement, Anti-Dumping Agreement and the GATT 1994. On 11 February 2011, the US requested the establishment of a panel. The DSB established a panel on 25 March 2011.</p> <p>Third Parties: The EU, Honduras, India, Japan, Korea , Viet Nam, Argentina and Saudi Arabia.</p> <p>Composition of the Panel: 10 May 2011 Panel Report: 15 June 2012</p> <p>On 30 November 2012, China provided that it intended to implement the DSB recommendations and rulings in a manner that respects its WTO obligations. China said that it would need a reasonable period of time to complete the obligations. On 3 February 2013, the US requested that the reasonable period of time be determined through binding arbitration pursuant to Article 21.3(c) of the DSU. On 22 February 2013, the Director General appointed Mr. Claus Dieter Ehlermann to act as arbitrator under Article 21.3(c) of the DSU. On 4 March 2012, MR. Ehlermann accepted this appointment.¹⁷¹</p>
DS403: Philippines-Taxes on Distilled	The US requested consultations with the Philippines with respect to the taxation of imported distilled spirits by the Philippines. The US considers that the Philippines' taxes on distilled spirits discriminate against imported distilled spirits by taxing them at a

¹⁶⁹ WTO Dispute Settlement, China-Anti-Dumping and Countervailing Duties on Certain Automobiles from the United States, DS440, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds440_e.htm

¹⁷⁰ WTO Dispute Settlement, India-Measures Concerning the Importation of Certain Agriculture Products from the United States, DS430, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds430_e.htm

¹⁷¹ WTO Dispute Settlement, China-Countervailing and Anti-Dumping Duties on Grain Oriented Flat-rolled Electrical Steel from the United States, DS414, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds414_e.htm

Spirits	substantially higher rate than domestic spirits. The US considered these measures to be inconsistent with Article III:2 of the GATT 1994. The Philippines said that it intended to implement the DSB's recommendations and rulings in a manner that respects its WTO obligations. On 20 April 2012, the Philippines and the US informed the DSB that they had agreed that the reasonable period of time for the Philippines to implement the DSB's recommendations and rulings shall be 13 months and 16 days which expires on 8 March 2013. On 28 January 2013, the Philippines reported that "An Act Restructuring the Excise Tax on Alcohol and Tobacco Products" was passed by Congress on 11 December 2012, and approved by the President on 19 December 2012. The Philippines considered that the adoption of this law completed its implementation of the DSB's recommendations and rulings. ¹⁷²
DS394: China-Measures Related to the Exportation of Various Raw Materials	The US requested consultations with China with respect to China's restraints on the export from China of various forms of raw materials. The US contended that such measures were inconsistent with GATT 1994 and the Protocol on the Accession of China. Third parties included Argentina, Brazil, Canada, Chile, Columbia, Ecuador, EU, India, Japan, Republic of Korea, Mexico, Norway, Chinese, Taipei, Turkey and the Kingdom of Saudi Arabia. China agreed on the implementation of the DSB recommendations and rulings under a reasonable period of time. On 17 January 2013, China and the US informed the DSB of Agreed Procedures under Article 21 and 22 of the DSU. ¹⁷³
DS449: United States-Countervailing and Antidumping Measures on Certain Products from China	China requested consultations with the US on certain measures violate of the SCM Agreement, GATT 1994 and the Anti-Dumping Agreement. On 17 December 2012, the DSB established a panel. Third parties were Australia, Canada, European Union, Japan, Turkey, Viet Nam, India, Russian Federation. On 21 February 2012, China requested the Director-General to determine the composition of the panel and on 4 March 2013, the Director-General composed the panel. ¹⁷⁴
DS447: United States-Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina	Argentina requested consultations with the US concerning certain measures affecting the importation of animals, meat and other animal products from Argentina. The measures seem to be inconsistent with the GATT 1994, the SCM Agreement and the WTO Agreement. On 28 January 2013, the DSB established a panel. Third parties include Australia, Brazil, China, European Union, India and the Republic of Korea. ¹⁷⁵
DS422: United States – Anti-Dumping Measures on Shrimp and Diamond Sawblades from China	China contended that the US anti-dumping measures on certain frozen warmwater shrimp from China is inconsistent with GATT 1994 and the Anti-Dumping Agreement. The Appellate Body gave its decision after an appeal from the Panel's decision. The US and China informed the DSB of the reasonable period of time for the US to implement the DSB recommendations and rulings which shall expire on 23 March 2013. ¹⁷⁶

Third Party Dispute

¹⁷² WTO Dispute Settlement, Philippines-Taxes on Distilled Spirits, DS403, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds403_e.htm

¹⁷³ WTO Dispute Settlement, China-Measures Related to the Exportation of Various Raw Materials, DS394 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds394_e.htm

¹⁷⁴ WTO Dispute Settlement, United States-Countervailing and Anti-dumping Measures on Certain Products from China, DS449, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds449_e.htm

¹⁷⁵ WTO Dispute Settlement, United States-Measures Affecting the Importation of Animals, Meat and Other Animal Products from Argentina, DS447, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds447_e.htm

¹⁷⁶ WTO Dispute Settlement, United States-Anti-Dumping Measures on Shrimp and Diamond Sawblades from China, DS422 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds422_e.htm

Name	Description
<p>DS445: Argentine-Measures Affecting the Importation of Goods</p> <p>DS438 [Similar set of facts, only complainant is the EU]</p>	<p>Japan contended that the measures by Argentina on the importation of goods to be inconsistent with GATT 1994, TRIMs Agreement, the Agreement on Import Licensing Procedures and the Safeguards Agreement. On 28 January 2013, the DSB established a single panel pursuant to Article 9.1 of the DSU to examine this dispute. Third parties: Australia, Canada, China, Ecuador, European Union, Guatemala, India, Israel, Japan, Republic of Korea, Norway, Kingdom of Saudi Arabia, Switzerland, Chinese Taipei, Thailand, Turkey and the US.¹⁷⁷</p>
<p>DS426: Canada-Measures Relating to the Feed-in Tariff Program</p> <p>DS412 [Same facts except the complainant is Canada]</p>	<p>The EU contended that Canada's measures relating to domestic content requirements in the feed-in-tariff program is inconsistent with the GATT 1994, SCM Agreement and the TRIMs. On 13 February 2013, Canada notified the DSB of its decision to appeal to the Appellate Body certain issues and the EU notified the DSB to appeal to the Appellate Body on 11 February 2013.¹⁷⁸</p>
<p>DS425: China-Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union</p>	<p>The EU contends that China's imposition of definitive anti-dumping duties on x-ray security inspection equipment from the EU is inconsistent with the Anti-Dumping Agreement. On 13 February 2013 the panel report was circulated to members. The Panel held that MOFCOM's imposition of antidumping duties without recognizing the comparability of prices and products is inconsistent with Article 3 of the Anti-Dumping Agreement.¹⁷⁹</p>
<p>DS371: Thailand-Customs and Fiscal Measures on Cigarettes from the Philippines</p>	<p>The Philippines contends that Thailand's fiscal and customs measures affecting cigarettes from Philippines violates Article X:3(a) of the GATT 1994. On 28 January 2013, Thailand reported that it had completed the final outstanding steps in its implementation process. Philippines did not agree that Thailand has fully implemented the DSB's recommendations and rulings. At the DSB meeting of 27 February 2013, the Philippines expressed concern that it had not been informed of any progress toward resolving the remaining WTO-inconsistencies and added that it would take appropriate steps shortly.¹⁸⁰</p>

¹⁷⁷ WTO Dispute Settlement, Argentine-Measures Affecting the Importation of Goods, DS445, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds445_e.htm

¹⁷⁸ WTO Dispute Settlement, Canada-Measures Relating to the Feed-in Tariff Program, DS426 http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds426_e.htm

¹⁷⁹ WTO Dispute Settlement, China-Definitive Anti-Dumping Duties on X-Ray Security Inspection Equipment from the European Union, DS425, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds425_e.htm

¹⁸⁰ WTO Dispute Settlement, Thailand-Customs and Fiscal Measures on Cigarettes from the Philippines, DS371, http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds371_e.htm