TRADE POLICY DEVELOPMENTS PAPER NO. 63

TRADE POLICY MONITORING REPORT

OF

USA

(October 2013 - December 2013)

VOLUME XI

Authors: James J. Nedumpara and Vandana Gyanchandani

This report has been prepared under a consultancy project awarded by the Center for WTO Studies, Indian Institute of Foreign Trade (IIFT), New Delhi.

TABLE OF CONTENTS

ABBREVIATIONS

1) $	US Dollar
2) BEA	Bureau of Economic Analysis
3) BIS	Bureau of Industry and Security
4) BOE	Bank of England
5) BOJ	Bank of Japan
6) CBP	Customs and Border Protection
7) DOC	Department of Commerce
8) DOE	Department of Energy
9) DPI	Disposable Personal Income
10) EC	European Communities
11) ECCN	Export Control Classification Number
12) EU	European Union
13) FATCA	Foreign Account Tax Compliance Act
14) FTA	Free Trade Agreement
15) GDP	Gross Domestic Income
16) GM	General Motors
17) GPA	Government Procurement Agreement
18) HTSUS	Harmonised Tariff Schedule of the US
19) IPR	Intellectual Property Rights
20) ISA	International Services Agreement
21) ITA	Information Technology Agreement
22) ITI	Information Technology and Industry Council
23) JCCT	Joint Commission on Commerce and Trade
24) P5+1	Permanent members of UN plus Germany
25) PANTPA	Panama Trade Promotion Agreement
26) SNB	Swiss National Bank
27) SOE	State-Owned Enterprises
28) TARP	Troubled Assets Relied Program
29) TICFA	Trade and Investment Cooperation Agreement
30) TIFA	Trade and Investment Framework Agreement
31) TPP	Trans-Pacific Partnership
32) TRIPS	Agreement on Trade Related Aspects of Intellectual Property Rights
33) TTIP	Trans-Atlantic Trade and Investment Partnership
34) US	United States
35) USTR	United States Trade Representative
36) WTO	World Trade Organization

EXECUTIVE SUMMARY

⇒ *Economy*

- Real GDP grew by 2.4% in the third quarter of 2013 and 1.9% in the year 2013.
- Real exports of goods and services increased by 9.4% in the third quarter of 2013.
- The Treasury will provide a "highly accommodative stance monetary policy" after the asset purchase program ends and the economic recovery gains strength.
- As on 27 December 2013, the US' reserve assets totalled $145.70 million.
- As on 31 December 2013, direct holdings of foreign government securities totalled $21.61 billion and foreign government securities held under repurchase agreement totalled $5.09 billion.
- The Obama Administration is forcing the passage of Trade Promotion Authority for the Congress to set clear negotiating agenda which facilitates trade agreement negotiations.

⇒ *Trade Policy Developments*

- The US has signed 6 new bilateral agreements to implement the information reporting and withholding tax provisions commonly known as the Foreign Account Tax Compliance Act.
- The US rejected the establishment of a panel in the dispute by South Korea against 'zeroing' methodology used by the US DOC.
- Brazil formally opened public discussions on potential retaliation on US IPR against US' noncompliance in the US-Upland cotton dispute.
- The US and India came to compromise in the text on food security by the inclusion of peace clause until further resolution is reached.
- The US and Bangladesh signed TIFCA on 11 December 2013 which provides a mechanism to discuss trade and investment.
- The US and Morocco signed a Trade Facilitation Agreement.
- The 8th US-Central Asia TIFA Council meeting took place during the quarter whereby overall issues relevant to trade and investment were dealt with.
- The US-China JCCT took place during the quarter whereby China undertook commitments to improve its IPR enforcement regime and to accelerate its negotiations on accession to the WTO Agreement on Government Procurement.
- The BIS advised exporters that they should be aware that the foreign customers may be required import and re-export licenses from their own government irrespective of a validated US license.
- The Department of Energy conditionally permitted the exportation of 1.8 billion of cubic feet per day of liquefied natural gas to countries with which it does not have an FTA.
- The USTR released 2013 Special 301 Report whereby it provided certain concerns with respect to India as well as gave best practices advice. The priority country for the year 2013 is Ukraine.
- The US and Libya signed a Trade and Investment Framework Agreement (TIFA) to provide a forum to discuss trade and investment issues.

⇒ *TPP & TTIP*

- During the quarter, second and third rounds of TTIP took place whereby the main areas of negotiations were investment rules, trade in services, range of regulatory issues like regulatory coherence, technical barriers to trade, sectoral approaches as well as energy and raw materials.

- During the quarter, TPP members met to end the meetings with substantial resolution on issues like intellectual property rights, cross-border trade in services, temporary entry, environmental market access, state-owned enterprises, sanitary and phytosanitary issues, government procurement, labor, e-commerce, legal issues, technical barriers to trade and rules of origin. The 3rd round of US-Japan Parallel Negotiation took place on issues like motor vehicles, insurance and other non-tariff measures.
- As regards the entry of new members, South Korea, Philippines and Malaysia have shown interest. However, it was stated by the TPP member Canada's Trade minister that *it is deeply improbable that any country will now join the TPP-12 as negotiations reach their final stage.*

AGENDA FOR THE NEXT REPORT

- Update on the suspension of trade and investment negotiations with Russia due to its military intervention in Ukraine and further initiating a referendum to seek Crimea's integration with the Russian Federation.
- Review of the Agricultural Act of 2014 by the US House of Representatives which includes significant reduction in the farm policy spending by improving agricultural programs.
- Significance of the President's 2015 budget request which supports Trade and Investment.
- Updates on the TPP and TTIP negotiations as the parties consult with each other on controversial issues having an impact on trade and investment.
- Review of President's 2014 Trade Policy Agenda which underscores commitment to increasing benefits to middle class and American values through trade.
- Analysis of the removal of Israel from Special 301 Report.
- Update on US's request for consultations with China due to China's non-compliance with the WTO's decision in the China-GOES dispute.
- Update on the request for consultations by the US to India after India's cabinet approved the Phase II of National Solar Mission due to the presence of local content requirements which leads to discrimination against US' exports.
- Update on the US-Nigeria 8th Trade and Investment Framework Agreement meeting in March 2014.
- Update on US-Iraq's inaugural Trade and Investment Framework Agreement meeting and the progress on bilateral issues.
- Updates on the US International Trade Commission Investigation of Trade, Investment and Industrial Policies in India.

I. INTRODUCTION

This is the tenth Quarterly Trade Policy Report prepared by the Center for International Trade and Economic Laws (CITEL), Jindal Global Law School. This report will monitor and discuss the trade and macroeconomic policy developments that took place in the United States of America during the period of October-December 2013.

II. ECONOMIC AND TRADE ENVIRONMENT

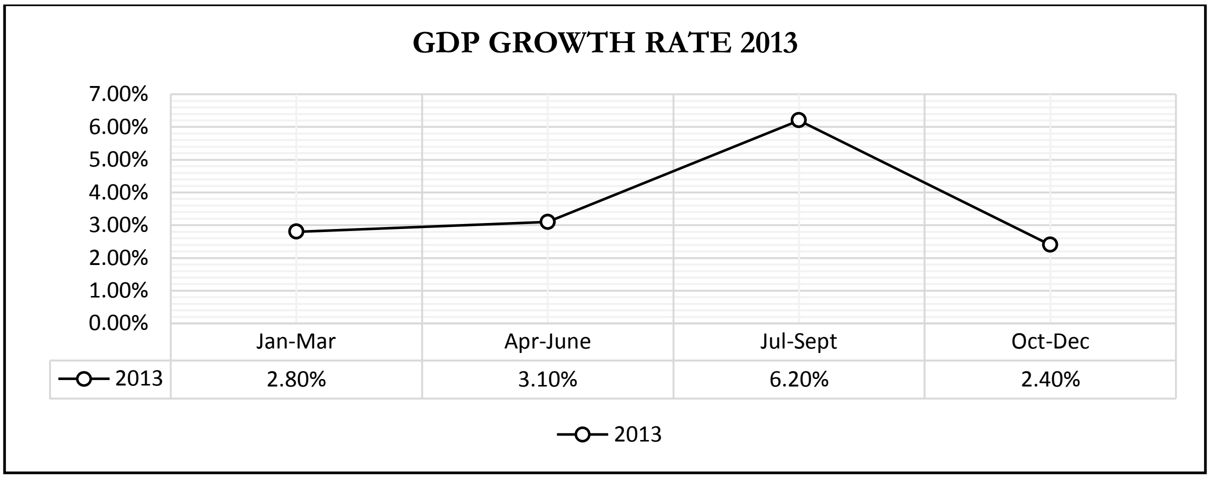
II.A Recent Economic Development

III.A.1 GDP

Real gross domestic product (the output of goods and services produced by labor and property located in the United States) increased at an annual rate of 2.4% in the third quarter of 2013 as compared to the previous quarter increase of 4.1% per annum.[1]

The decrease in real GDP in the fourth quarter reflects decrease in inventory investment, a larger decrease in federal government spending and a downturn in residential fixed investment, a decrease in state and local government spending and in non-residential fixed investment that were partly offset by accelerations in exports and in consumer spending and a deceleration in imports.

Real GDP increased 1.9% in 2013 (i.e. from 2012 annual level to 2013 annual level) as compared with an increase of 2.8% in 2012. The increase in real GDP in 2013 primarily came from personal consumption expenditure, exports, non-residential fixed investment, residential fixed investment and private inventory investment that were partly offset by a negative contribution from federal government spending. Imports, generally increased.



Source: *Bureau of Economic Analysis*

II.A.2 Price index for gross domestic purchases

[1] Bureau of Economic Analysis, 'National Income and Product Accounts: Gross Domestic Product, Fourth Quarter and Annual 2013 (second estimate)' (28 February 2014) http://www.bea.gov/newsreleases/national/gdp/gdpnewsrelease.htm (last visited on Mar. 17, 2014).

The measure of prices paid by the US residents increased 1.5% in the third quarter as compared to 1.8% in the previous quarter. Prices of energy and food decreased in the third quarter.[2] When food and energy prices are excluded, the price index for gross domestic purchases increased 1.8% in the third quarter as compared to 0.7% in the previous quarter. The price index for gross domestic purchases increased 1.2% in 2013 as compared to an increase of 1.7% in 2012.

II.A.3 Real non-residential fixed investment

Real non-residential fixed investment increased 7.3% in the third quarter as compared to 4.8% in the previous quarter. Non-residential structures increased 0.2% as compared to 13.4% in the previous quarter.[3] Equipment increased 10.6% as compared to 0.2% in the previous quarter. Intellectual property products increased 8%, compared with an increase of 5.8%. Real residential fixed investment decreased 8.7%, in contrast to an increase of 10.3% in the previous quarter.

II.A.4 Real Exports and Imports

Real exports of goods and services increased 9.4% in the third quarter as compared to 3.9% in the previous quarter. Exports added 0.38% to the real GDP in 2013 as compared to 0.48% in 2012.[4] The slowdown was accounted for by a slowdown in exports of goods that was partly offset by an increase in exports of services. While imports subtracted 0.23% from the change in real GDP as compared to 0.38% in 2012. The slowdown reflected decrease in imported products.

II.A.5 International Trade in Goods and Services

The US exports reached $2.3 trillion in 2013. There was an increase in both goods and services' exports. Goods exports totalled $1.58 trillion, with an increase in a number of important sectors, including industrial supplies, consumer goods and capital goods.[5]Services exports amounted $682 billion, with records in several major service sectors. Travel and tourism was one of the record sector, as international visitors contributed $139.6 billion to the American economy. Around 4.7% increase in exports amounting to $226 billion came from exports to Mexico. Nearly, 10 million jobs in the US are supported by exports, which is an increase of 1.3 million jobs since the President launched the National Export Initiative in 2010.

(a) Exports and imports of goods and services during October 2013

Exports and imports in goods and services amounted to $192.7 billion and $233.3 billion respectively.[6] October exports were $3.4 billion more than September exports of $189.3 billion. October exports were $1.0 billion more than September imports of $232.3 billion. Goods deficit increased $2.2 billion from September to $60.2 billion and services surplus increased $0.1 billion from September to $19.6 billion. Exports of goods increased $3.0 billion to $135.3 billion, and imports of goods increased $0.8 billion to $195.5 billion. Exports of services increased $0.4 billion to $57.4 billion, and imports of services increased $0.3 billion to $37.8 billion.

[2]*Id.*
[3]*Id.*
[4]*Id.*
[5]*Id.*
[6] Bureau of Economic Analysis, 'U.S. International Trade in goods and services: October 2013' http://www.bea.gov/newsreleases/international/trade/2013/trad1013.htm (last visited on Mar. 17, 2013).

The goods and services deficit decreased $2.0 billion from October 2012 to October 2013. Exports were up $10 billion, or 5.5%, and imports were up $8 billion or 3.6%. Increase in exports of goods from September to October reflected increases in industrial supplies and materials ($1.5 billion); consumer goods ($1.0 billion); foods, feeds and beverages ($0.6 billion); capital goods ($0.3 billion); and other goods ($0.2 billion). A decrease occurred in automotive vehicles, parts and engines ($0.2 billion). While increase in services by $0.4 billion reflected increase in private services ($0.2 billion), which includes business, professional and technical services, insurance services and financial services, in travel ($0.1 billion), and in passenger fares ($0.1 billion).

Increase in imports from September to October reflected increases in industrial supplies and materials ($3.2 billion); capital goods ($1.5 billion); automotive vehicles, parts, and engines ($1.1 billion); consumer goods ($1.0 billion); and foods, feeds, and beverages ($1.0 billion). Other goods were virtually unchanged. While imports in services increased $0.3 billion which mostly accounted for by increase in passenger fares ($0.1 billion) and in travel ($0.1 billion).

October 2012-2013 increase in exports reflected increase in industrial supplies and materials ($3.2 billion); capital goods ($1.5 billion); automotive vehicles, parts, and engines ($1.1 billion); consumer goods ($1.0 billion); and foods, feeds and beverages ($1.0 billion). Other goods were virtually unchanged. While the exports in services increased $2.7 billion or 5%. The largest increase were in travel ($1.2 billion); in royalties and license fees ($0.6 billion); and in other private services ($0.6 billion). In private services, the largest increase was in business, professional and technical services.

The October 2012-2013 increase in imports of goods reflected increase in consumer goods ($4.4 billion), automotive vehicles, parts and engines ($1.6 billion); capital goods ($1.4 billion); food, feeds and beverages ($0.9 billion); and other goods ($0.6 billion). Decrease occurred in industrial supplies and materials ($1.6 billion). While the increase in services was $0.9 billion or 2.3%, the largest increases were in other transportation ($0.4 billion), which includes freight and port servies, in royalties and license fees ($0.3 billion), and in passenger fares ($0.3 billion). The largest decrease was in direct defense expenditures ($0.2 billion).

(b) Export and Imports of goods and services during November 2013

Total exports and imports in November 2013 accounted for $194.9 billion and $229.1 billion respectively.[7] In November, the goods deficit decreased $4.9 billion from October to $53.9 billion, and the services surplus increased $0.2 billion from October to $1.9 billion. Th goods and services deficit decreased $12.2 billion from November 2012-2013. Exports increased $9.6 billion, or 5.2%, and imports were down $2.5 billion, or 1.1%.

The October to November increase in exports of goods reflected increase in industrial supplies and materials ($0.7 billion); other goods ($0.5 billion); capital goods ($0.3 billion); and automotive vehicles, parts and engines ($0.1 billion). Decrease ocurred in consumer goods ($0.5 billion) and foods, feeds, beverages ($0.1 billion). While exports of services increased $0.3 billion from October-November 2013. Such increase was mostly announced by increase in travel ($0.1 billion), in passenger fares ($0.1 billion), and in royalties and license fees ($0.1 billion). Change in the other categories of services exports were relatively rare.

[7] Bureau of Economic Analysis, 'U.S. International Trade in goods and services: November 2013' http://www.bea.gov/newsreleases/international/trade/2014/trad1113.htm (last visited on Mar. 17, 2013).

The October-November decrease in imports of goods reflected decrease in industrial supplies and materials ($6.9 billion); other goods ($0.3 billion); and consumer goods ($0.3 billion) Increase occurred in capital goods ($2.2 billion); automotive vehicles, parts, and engines ($1.6 billion); and food, feeds and beverages ($0.2 billion). While imports of services increased $0.1 billion from October-November, mainly reflecting increases in other transportation ($0.1 billion), which includes freight and port services, and in other private services ($0.1 billion), which includes business, professional and technical services, insurance services, and financial services.

The November 2012-2013 increase in exports of services was $2.2 billion or 4%. The largest increase were in travel ($0.9 billion), in royalties and license fees ($0.6 billion) and in other private services ($0.4 billion). Within the private services, the largest increase was in financial services. The November 2012-2013 increase in imports of services was $1.0 billion or 2.7%. The largest increases were in other transportation ($0.4 billion), in travel ($0.4 billion), and in passenger fares ($0.3 billion). The largest decrease was in direct defense expenditures ($0.2 billion).

(c) Exports of goods and services during December 2013

In December 2013, the exports and imports were $191.3 billion and $230 billion respectively.[8] There was goods and services deficit of $$38.7 billion, up from $34.6 billion in November. December exports were $3.5 billion less than November exports of $194.8 billion. December imports were $0.6 billion more than November imports of $229.4 billion.

In December, the goods deficit increased $4.6 billion from November to $58.8 billion, and the services surplus increased $0.4 billion from November to $20.1 billion.[9] Exports of goods decreased $4.3 billion to $132.8 billion and imports of goods increased $0.3 billion to $191.6 billion. Exports of services increased$0.8 billion to $58.5 billion, and imports of services increased $0.3 billion to $38.4 billion.The goods and services deficit increased $0.4 billion from December 2012 to December 2013. Exports were up $2.6 billion, or 1.4%, and imports were up by $0.3 billion, or 1.3%.

The November-December decrease in exports of goods reflected decreases in industrial supplies and materials ($1.1 billion); capital goods ($1.1 billion); other goods ($0.9 billion); automotive vehicles, parts and engines ($0.8 billion); consumer goods ($0.7 billion). An increase occurred in foods, feeds and beverages ($0.4 billion). While exports of services increased $0.8 billion from November to December. The increase was accounted for by the increase in travel ($0.5 billion), in passenger fares ($0.2 billion) and in other transportation ($0.1 billion), which includes freight and port services. Changes in other categories of services exports were relatively small and offsetting.

The November to December increase in imports of goods reflected increase in consumer goods ($0.7 billion), industrial supplies and materials ($0.5 billion), and other goods ($0.3 billion). Decrease occurred in automotive vehicles parts, and engines ($0.9 billion); capital goods ($0.3 billion); foods, feeds and beverages ($0.1 billion). Import of services increased $0.3 billion from November to December due to increases in travel ($0.3 billion) and in passenger fares ($0.2 billion). Increases in travel and passenger fares were partly offset by decrease in other transportation ($0.2 billion).

[8] Bureau of Economic Analysis, 'U.S. International Trade in goods and services: December 2013' http://www.bea.gov/newsreleases/international/trade/2014/trad1213.htm (last visited on Mar. 17, 2013).
[9] *Id.*

The December 2012-2013 increase in exports of goods reflected increase in foods, feeds and beverages ($1.8 billion); capital goods ($0.4 billion); automotive vehicles, parts, and engines ($0.2 billion); consumer goods ($0.1 billion) Decrease occurred in industrial supplies and materials ($1.5 billion) and other goods ($0.9 billion). While exports of services was $2.5 billion or 4.5% whereby the largest increase were in travel ($1.3 billion), in royalties and license fees ($0.6 billion) and in passenger fares ($0.4 billion).

The December 2012-2013 increase in imports of goods reflected increase in capital goods ($1.7 billion); automotive vehicles, parts, and engines ($1.3 billion); consumer goods ($1 billion); other goods ($0.3 billion); and foods, feeds and beverages ($0.2 billion). A decrease occurred in industrial supplies and materials ($2.9 billion). While increase in imports of services was $1.3 billion or 3.5% whereby the largest increase were in travel ($0.7 billion), in passenger fares ($06 billion), and in other transportation ($0.2 billion). The largest decrease was in direct defense expenditures ($0.2 billion).

II.A.6 Real federal government consumption expenditures and gross investment

Real federal government consumption expenditure and gross investment increased 12.8% in the third quarter as compared to the decrease of 1.5% in the previous quarter.[10] National defense increased 14.4% as compared with a decrease of 0.5% in the previous quarter. Nondefense increased 10.1% as compared to the decrease of 3.1% in the previous quarter. Real state and local government consumption expenditure and gross investment decreased 0.5% in contrast to an increase of 1.7% in the previous quarter.

II.A.7 Gross domestic purchase prices by the federal government

Prices paid by the federal government increased by 5.4% as compared to 1.0% in the previous quarter.[11] The increase reflected a large increase in prices for federal nondefense spending. The prices for nondefense spending primarily reflected a temporary increase in the prices paid for the compensation of federal government employees that was related to the partial federal government shutdown. Due to lapse in appropriations, some federal government agencies were closed and some employees were furloughed 1-16 October 2013.

The full effects of the partial shutdown on real GDP growth in the third quarter cannot be quantified because they are embedded in the regular source data that underlie the estimates and cannot be identified. However, the BEA has estimated that the government shutdown reduced the real GDP by 0.3% in the third quarter. After the shutdown, Congress legislated back-pay for the furloughed workers. As a result, the shutdown did not affect current dollar federal government employee compensation, but the prices paid for this compensation temporarily increased.

---

[10] Bureau of Economic Analysis, 'National Income and Product Accounts: Gross Domestic Product, Fourth Quarter and Annual 2013 (second estimate)' (28 February 2014) http://www.bea.gov/newsreleases/national/gdp/gdpnewsrelease.htm (last visited on Mar. 17, 2013).

[11] *Id.*

II.A.8 Real private inventories

The change in real private inventories added 0.14% to the third quarter change in the real GDP as compared to 1.67% in the previous quarter.[12]Private businesses increased inventories $117.4 billion in the third quarter as compared to 0.5% in the previous quarter.[13]

II.A.9 Real final sales of domestic product (GDP less change in private inventories)

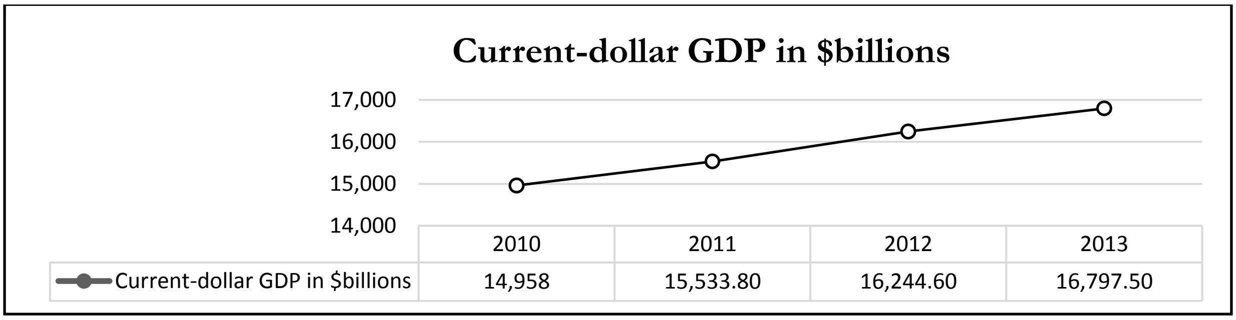
Real final sales of domestic product increased 2.3% in the third quarter as compared with an increase of 2.5% in the previous quarter.[14]

II.A.10 Real gross domestic purchases (purchases by US citizens of goods and services wherever produced)

Real gross domestic purchases increased 1.4% in the third quarter as compared to an increase of 3.9% in the previous quarter.[15]

II.A.11 Current-dollar GDP (the market value of the nation's output of goods and services)

Current dollar GDP increased 4.0% or $167.8 billion in the third quarter, amounting to $17,080.7 billion. In the previous quarter, current-dollar GDP increased 6.2%, or $251.9 billion.[16]Current-dollar GDP increased 3.4%, or $552.9 billion in 2013, to a level of $16,797.5 billion, compared with an increase of 4.6%, or $710.8 billionin 2012.



Source: *Bureau of Economic Analysis*

II.A.12 Real Disposable Personal Income

DPI increased 0.8% in the third quarter as compared to 0.3% in the previous quarter. Current dollar DPI increased 1.5% in the third quarter after increasing 5.0% in the previous quarter.[17] The sharper decrease in the current–dollar DPI than in the real DPI reflected a deceleration in the implicit price deflator for consumer spending, which is used to deflate DPI.

II.A.13 Personal Saving Rate

[12]*Id.*
[13]*Id.*
[14]*Id.*
[15]*Id.*
[16]*Id.*
[17]*Id.*

PSR as a % of current-dollar DPI was 4.3% in the third quarter as compared to 4.9% in the previous quarter.[18]

II.A.14 Consumer spending

Consumer spending increased in the third quarter, primarily reflecting the positive contribution of service sector.[19] Spending on goods also increased. In services, the largest contributors were household utilities and food services and accommodations.

II.B Monetary, Fiscal and Other Policies

II.B.1 Federal Reserve issues FOMC statement

On 30 October 2013, the Federal Reserve laid down the monetary policy considerations and stated that since September 2013, the economic activity has continued to expand at a moderate pace while indicators of labor market conditions have shown improvement, but the unemployment rate remains elevated.[20] Household spending and business fixed investment advanced, while the recovery in the housing sector slowed in the recent months. Fiscal policy is restraining the growth. Apart from fluctuations due to energy prices, inflation has been running below the Committee's longer-run objective, but longer-term inflation expectations have remained stable.

The Committee recognized that with an appropriate policy accommodation, economic growth will rise up from its recent pace and the unemployment rate will gradually decline toward levels consistent with the Committees' dual mandate. The Committee recognized that the downside risks to the outlook of the economy and labor market has diminished on net, since last fall. The Committee further stated that inflation which is persistently below its 2% objective may pose risks to economic performance, but it anticipates that inflation will move back toward its objective over the medium term.

Recognizing the federal fiscal retrenchment over the past year, the Committee sees the improvement in economic activity and labor market conditions since it began its asset purchase program as consistent with growing underlying strength in the broader economy. Committee decided to await more evidence that progress will be sustained before adjusting the pace of its purchases. Accordingly, the Committee decided to continue purchasing additional agency mortgage-backed securities at a pace of $40 billion per month and longer-term Treasury securities at a pace of $45 billion per month.

The Committee is maintaining its existing policy of reinvesting principal payments from its holdings of agency debt and agency mortgage-backed securities and of rolling over maturing Treasury securities at auction. These actions by the Committee will maintain downward pressure on longer-term interest rates, support mortgage markets, and help to make broader financial conditions more accommodative, which in turn should promote a stronger economic recovery and held to ensure that inflation, over time, is at the rate most consistent with the Committee's dual mandate.

The Committee stated that it will closely monitor incoming information on economic and financial developments in coming months and will continue its purchases of Treasury and agency mortgage-backed

[18] *Id.*
[19] *Id.*
[20] U.S. Federal Reserve, Press Release (30 October 2013) http://www.federalreserve.gov/newsevents/press/monetary/20131030a.htm (last visited on Mar. 17, 2013).

securities, and employ itsother policy tools as appropriate, until the outlook for the labor market has improved substantially in a context of price stability. In judging when to moderate the pace of asset purchases, the Committee will, at its coming meetings, assess whether incoming information continues to support the Committee's expectation of ongoing improvement in labor market conditions and inflation moving back toward its longer-run objective. Asset purchases are not on a pre-set course, and the Committee's decisions about their pace will remain contingent on the Committee's economic outlook as well as its assessment of the likely efficacy and costs of such purchases.

To support continued progress toward maximum employment and price stability, the Committee reaffirmed the view that a 'highly accommodative stance of monetary policy' will remain appropriate for a considerable time after the asset purchase program ends and the economic recovery strengthens. In particular, the Committee decided to keep the target range for the federal funds rate at 0-1/4% and currently anticipates that this exceptionally low range for the federal funds rate will be appropriate at least as long as the unemployment rate remains to be above 6-12%, inflations between one and two years ahead is projected to be no more than 1 ½ % above the Committee's 2% longer-run goal, and longer-term inflation expectations continue to be well anchored.

In determining how long to maintain ahighly accommodative stance of monetary policy, the Committee will also consider other information, including additional expectations, and readings on financial developments.When the Committee decided to begin to remove policy accommodation, it will take a balanced approach consistent with its longer-run goals of maximum employment and inflation of 2%.

II.B.2 Treasury auctioned for preferred stock of seven financial institutions

On 4 November 2013, the Treasury announced that it is commencing auctions of all of its Troubled Asset Relief Program's Capital Purchase [TARP] Program preferred stock (the CPP Securities) in the following seven institutions:

a) AB&T Financial Corporation
b) Bridgeview Bancorp, Inc.
c) Madison Financial Corporation
d) Midtown Bank & Trust Company
e) Pacific City Financial Corporation
f) United American Bank
g) Village Bank and Trust Financial Corp.[21]

The auction procedures are laid down in the applicable bidder letter agreement. The CPP securities are to be offered to:

a) Domestic Qualified Institutional Buyers as defined in Rule 144A under the Securities Act 1933;
b) Certain domestic institutional "accredited investors" as defined in Rule 501(a) under the Act that have total assets of not less than $25,000,000 and
c) In certain cases, certain directors and executive officers of the respective issuers of the CPP securities.

[21] U.S. Department of the Treasury, 'Treasury Department Announces Auctions for Prefered Stock of Seven Financial Institutions', http://www.treasury.gov/press-center/press-releases/Pages/jl2205.aspx (last visited Mar. 6, 2014)

II.B.3GM Common Stock sold by the Treasury

The Treasury announced on 19 December 2013 that it has sold all of the remaining shares of General Motors (GM) common stock as the Troubled Asset Relief Program, (TARP) ends.[22]Treasury has recouped a total of $39 billion from the original GM investment. Until this quarter, the Treasury has recovered a total of $432.7 billion on all TARP investment- including the sale of Treasury's shares in AIG- compared to $421.8 billion disbursed. The Treasury will continue to wind down the remaining investments in a manner that balances maximizing the taxpayer's return on investments with the speed of exit.

II.B.4Bilateral agreements to improve tax compliance and enforcement

The US has signed bilateral agreements with additional six jurisdictions to implement the information reporting and withholding tax provisions commonly known as the Foreign Account Tax Compliance Act (FATCA).[23]FATCA was enacted by the Congress in 2010 to target non-compliance by US taxpayers using foreign accounts.

The US has signed in total 8 FATCA intergovernmental agreements (IGAs), has 11 agreements in substance and is engaged in related discussions with many other jurisdictions. FATCA is becoming the global standard in the effort to curtail offshore tax evasion. FATCA seeks to obtain information on accounts held by the US taxpayers in other countries. It requires US financial institutions to withhold a portion of certain payments made to foreign financial institutions (FFIs) who do not agree to identify and report information on US account holders.Government has the option of permitting their FFIs to enter into agreements directly with the IRS to comply with FATCA under US Treasury Regulations or to implement FATCA by entering into one of two alternative Model IGAs with the US.

Bermuda signed a Model 2 agreement, meaning that Bermuda will direct and legally enable FFIs in Bermuda to register with the IRS and report the information required by FATCA about consenting US accounts directly to the IRS. The requirements is supplemented by government-to-government exchange of information regarding certain per-existing non-consenting accounts on request.

Malta, the Netherlands, and each of the Crown Dependencies that signed this week entered into Model 1A agreements. Under these agreements, FFIs will report the information required under FATCA about US accounts to their home governments, which in turn will report the information to the IRS. These agreements are reciprocal, meaning that the US will also provide similar tax information to these governments regarding individuals and entities from their jurisdictions with accounts in the US.

In addition to these FATCA agreements, protocols to the existing tax information exchange agreements with Jersey, Guernsey, and the Isle of Man were also signed. The six agreements are signed with the Islands of Bermuda, Guernsey, Isle of Man, Jersey, Malta and Netherlands.

[22] U.S. Department of the Treasury, 'Treasury sells final shares of GM Common Stock' http://www.treasury.gov/press-center/press-releases/Pages/jl2236.aspx(last visited Mar. 16, 2014).

[23] U.S. Department of Treasury, 'United Sates Signs Six More Bilateral Agreements to Improve Tax Compliance, Combat International Tax Evasion, And Implement FATCA' (19 December 2013) http://www.treasury.gov/press-center/press-releases/Pages/jl2251.aspx (Mar. 3, 2014).

Brief of the 2013 Annual Report by the Office of Financial Research

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 requires the OFR to report annually on:

a) The State of the US financial system, including an analysis of any potential threats to financial stability.
b) The Status of efforts by the USTR in meeting the mission.
c) Key findings from OFR research and analysis of the financial system.

Threats to financial stability

In early October 2013, increased sovereign risk concerns related to the US debt ceiling impasse and government shutdown led to a sharp rise in interest rate volatility, a widening in near-term sovereign credit default swaps spreads and a rise of risk in short-term secured and unsecured funding markets. The episode was short-lived, and most sovereign risk measures returned to earlier prevailing benign levels after the debt ceiling was temporarily extended. Although market conditions have calmed since then, challenges remain. The following are potential threats:

a) Risk of runs and asset fire sales in repurchase markets;
b) Excessive credit risk-taking and weaker underwriting standards;
c) Exposure to duration risk in the event of a sudden, unanticipated rise in interest rates;
d) Exposure to shocks from greater-risk taking when volatility is low;
e) The risk of impaired trading liquidity;
f) Spill overs to and from emerging markets.
g) Operational risk from automated trading systems, including high-frequency trading; and
h) Unresolved risks associated with uncertainty about the US fiscal outlook.

Together such risks may leave the financial system more susceptible to adverse shocks.

Duration and Interest Rate Risk
Investment portfolios face a growing duration risk- the risk that investors will incur outside losses in the event of an unexpected rise in interest rates as a result of exposure of long-dated, fixed-rate bonds. Courtesy of a long period of low yields, low volatility, and investors' search for yield, duration risk is at recent historical highs. The losses from a given change in interest rates would be larger than in the past.

Operational Risk
Developing more secure internal risk controls and risk management systems remains an ongoing structural risk theme. The Council's latest annual report cited technological and operational failures, natural disasters, and cyber-attacks as potential sources of significant financial system stress. One key source of operational risk across all markets is the growing role of automated trading systems, including high-frequency trading system which use sophisticated algorithms to place rapid-fire orders after analysing large volumes of market data. Automated trading represents a significant portion of daily equity and foreign exchange volumes and a sizable portion of Treasury market volumes. Given these volumes, high-frequency trading poses several potential financial stability risks, suggesting that closer monitoring may be warranted. Liquidity is the most commonly cited concern as it could decline in large losses accumulated quickly and unexpectedly and trading controls were in adequate. Liquidity provided by high-frequency trades is not the same as the liquidity by traditional market makers, as it lacks depth due to the small size of quotes and the fact that high-frequency-trading firms have no market making obligations. If there are narrower bid-offer spreads, the existence of the high-frequency traders during times of market stress could reduce liquidity.

Price discovery

The proliferation of trading in private market venues such as single-dealer trading platforms and dark pools – off-exchange venues that let large institutions trade anonymously – may be tied to the rise of high-frequency trades. This type of activity leads to market fragmentation, affects transparency and impairs price discovery. Studies have shown that the high-frequency traders tend to follow a price reversal strategy and are quick to detect price anomalies and act to stabilize prices. However, high-frequency traders also employ a narrower range of investment strategies, which may distort asset prices if similar trades are executed simultaneously.

Such high-frequency trading increases volatility of stock markets. Risk management measures are not well understood and require further investigation, particularly regarding controls, capital and the framework for assessing intraday positions that change rapidly.

US Fiscal Policy Outlook

Despite sharp narrowing in the US federal budget deficit, the US fiscal policy carries financial stability risks, driven by three factors:

a) Rapid pace of deficit reduction carriers economic costs
b) Clear resolution of the nation's long-term fiscal challenges is still lacking
c) Political process for implementing sustainable fiscal adjustments have become more unclear.

Under the current law, and due in part to additional cuts to take effect in January 2014 as part of the budget sequester, the Congressional Budget Office projects the deficit will decline to 2.1% of GDP by fiscal year 2015. But this substantial fiscal adjustment carries two risks:

a) It has created a fiscal drag on an economy that remains weaken
b) It creates an extra burden on other policy levers to support an economy

In the longer two other adverse trends cause concern:

a) The absence of bipartisan agreement has raised questions about whether long-term fiscal problems may be resolved smoothly.
b) The budget sequester did not address the longer-term sources of US budget challenges. Without further action, federal deficits and debt are likely to rise against as a share of GDP after 2018, as growth in entitlement outlays and debt service outstrips economic growth.

Increased credit and liquidity risk premiums

Treasury securities are known for their credit-worthiness and high liquidity. The strong creditworthiness of Treasury debt is reflected in the safe haven role it plays during periods of broad market volatility. The liquidity of treasuries is evidenced by their tight bid-ask spreads, high-turnover rates and prevalence as benchmarks in financial transactions. Doubts about the US government to meet fiscal challenges could contribute to increased credit-risk premiums and an erosion of the liquidity advantage translating into structurally higher yields, a steeper Treasury curve and increased volatility. Spill-overs into risk assets would likely follow, including wider credit spreads, lower asset prices and reduced liquidity.

Erosion of safe haven and reserve currency status

Concerns about US sovereign risk could lead central banks to reduce their dollar reserves and diversify into other currencies. That would boost US' borrowing costs and weaken the dollar, with spill-over effects on other US and global assets, in the absence of offsetting policy actions.

In addition, near-term, future episodes of fiscal uncertainty could result in shorter-term, destabilizing effects on financial markets, with adverse consequences for the US and global economies such as:

a) Forced deleveraging pressure

Concerns about potential payment delays could have pronounced market impacts. Yields on short-term Treasury bills could rise and the markets for derivatives and term repos could also be affected, as Treasuries are the most frequently used collateral in these markets, other than cash. During the latest episode, government-only US money market funds – which hold about $ 950 billion of assets – registered a $55 billion decline in assets under management during the first two weeks of October. Once the political impasse ended, flows swiftly reversed. But if such actions persisted, they could lead to more counter parties to sell, potentially resulting in asset fire sales in a worst case scenario. Even without delayed payments, Treasury repo market lenders could permanently increase discounts on borrowers' collateral, triggering more margin calls and a wave of deleveraging because of the mere risk of such action.

b) Cascades of downgrades

Major credit rating agencies have warned that episodes of uncertainty over the fiscal outlook could contribute to pressure to down-grade US government debt. Further US sovereign downgrade would put at risk the ratings of other entities, particularly financial institutions, clearing houses, the government sponsored enterprises, municipalities, and any institution with large exposure to treasuries. A single-notch down-grade would not be expected to have much impact on markets. Some types of Treasury investors are insensitive to price and ratings, and would likely retain large holdings as long as liquidity remained sufficient. Other investors with specific mandates might simply adjust their mandates. But a multi-notch downgrade could be more damaging.

c) Effects on other dollar denominated assets

The combination of reduced US sovereign creditworthiness, system-wide downgrade, higher cuts and reduced access to financing would likely lead to a broader correction in fixed-income securities that are priced off of the Treasury curve.

d) Operational risks

Segmentation in the Treasury market between securities that are at greater risk of non-payment and other Treasury securities could affect collateral used for repo transactions, margins for futures exchanges or over the counter derivative transactions. Impaired collateral that is ineligible for the Federal Reserve's fund transfer system would have to be settled through other means, raising the risk of payment and settlement failures. This kind of cash payment delay or default could result in a credit event, "triggering certain conditions attached to credit default swaps. Although net and gross amounts outstanding are small relative to the size of the market and the credit default swap pay-out on protection is low, potential operational challenges could arise if the full amount of outstanding credit default swap contracts were settled simultaneously.

e) Economic and institutional implications

Aside from the direct market impact, other broader macroeconomic effects would be likely if there were protracted impasse over the federal debt limit. Job creation, consumer spending, consumer confidence, and economic growth would be hurt, potentially leading to pressure on overall financial conditions and asset markets.

Source: *Office of Financial Research: 2013 Annual Report*

II.B.5International Reserve Position

On 27 December 2013, the Treasury released the last update for this quarter on US' reserve assets. US reserve assets totalled $145.70 million.[24]

II.B.6Minutes of the Financial Stability Oversight Council

TheCouncil discussed the debt limit and the expected exhaustion of borrowing authority by the Treasury by 17 October 2013.[25] The Chairperson noted that failure to raise the debt limit by 17 October 2013 would place the US government in the untenable position of operating with only the cash on hand and could severely impact financial markets and the broader economy. The Council also discussed what member agencies were hearing from their regulated entities and other market participants.

[24] U.S. Department of Treasury, 'U.S. International Reserve Position' (27 December 2013) http://www.treasury.gov/resource-center/data-chart-center/IR-Position/Pages/12272013.aspx (last visited on Mar. 19, 2013).

[25] US Dept. of Treasury, 'Minutes of the Financial Stability Oversight Council, (8 Oct. 2013) http://www.treasury.gov/initiatives/fsoc/council-meetings/Documents/October%208,%202013.pdf (last visited Mar. 17, 2013).

The Chairperson called the executive session of the meeting of the Council to order and the agenda for the meeting included the following subjects:

(a) The fiscal update: The Chairperson introduced the first agenda item and provided the Council with an update on the US fiscal situation, following the government shutdown and debt ceiling impasse earlier in October. He noted the agreement which raised the debt limit until 7 February 2014, and to continue to fund the government through 15 January 2014. The Chairperson stated that he hoped the debt limit will be addressed well before the February 2014 deadline. The Council members then discussed the effects of the government shutdown and debt ceiling impasse on the economy and financial markets, including short-term funding markets.

The Chairperson emphasized the importance of completing certain rulemaking implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act by the end of 2013. He emphasized that the weekly swaps report which is being initiated by CFTC will provide the public a detailed view of the swaps marketplace and will cover interest rate and credit asset classes that comprise about 90% of the approximately $400 trillion swaps market.

(b) An update on the Council's 2013 annual recommendations on interest rate risk;
(c) A presentation on asset management;
(d) An update on the global macro-economic environment;
(e) Consideration of and a vote on, a resolution approving the minutes of the Council's meetings on 10 September 2013 and 8 October 2013.

II.B.7Foreign Exchange Markets

The US monetary authorities did not intervene in the foreign exchange markets during October-December 2013.[26] During the three months that ended 31 December 2013, the dollar appreciation was largest against the yen as well as major emerging market and cyclically-sensitive currencies. In contrast, the dollar depreciated 1.6% against the euro and 2.2% against the British pound. In this period, the dollar's nominal trade-weighted exchange value increased 1.4%, as measured by the Federal Reserve Board's major currencies index. The ten-year Treasury yield increased 42 basis points during the quarter.

II.B.8Liquidity Swap Arrangements with Foreign Central Banks

On 31 October 2013, the FOMC announced the conversion of existing temporary liquidity swap arrangements to standing arrangements that will remain in place until further notice.[27] Previously, the Federal Reserve, in coordination with the Bank of Canada, the Bank of England, the Bank of Japan, the European Central Bank and the Swiss National Bank, had agreed to extend the authorization of the temporary US dollar and foreign currency liquidity swap arrangements through 1 February 2014. As of 31 December 2013, the European Central Bank had $272 million outstanding under the US dollar liquidity swaps, all in three-month tenor transactions. The BoC, BoE, BoJ and SNB had no outstanding swaps at the end of the quarter. On 12 December 2013, a small-value US dollar liquidity swap exercise was performed with some foreign central banks that have liquidity swap arrangements with the Federal

[26] Federal Reserve Bank of New York, 'US Monetary Authorities did not intervene in FX Markets during the fourth quarter' (13 February 2013) http://www.newyorkfed.org/newsevents/news/markets/2014/fx140213.html (last visited on Mar. 17, 2013).
[27] U.S. Dept. of Federal Reserve, Press Release (31 Oct. 2013) http://www.federalreserve.gov/newsevents/press/monetary/20131031a.htm (last visited on Mar. 16, 2013).

Reserve Bank of New York. The purpose of these small-value operations is to test the operational readiness of the swap arrangements.

II.B.9Foreign exchange reserve holdings

The US monetary authorities invest their foreign currency reserves in a variety of instruments that yield market rates of return and have a degree of liquidity and credit quality.[28] To the greatest extent practicable, the investments are split evenly between the System Open Market Account and the Exchange Stabilization Fund. A significant portion of the US monetary authorities' foreign exchange reserves is invested on an outright basis in German, French and Japanese government securities.

The amount of euro denominated reserves held on deposit has remained slightly increased in the third quarter, given extremely low rates in euro-denominated money markets, although the amount of yen-denominated deposits has remained fairly steady over recent quarters. A smaller portion of the reserves was invested in euro-denominated repurchase agreements, under which the US monetary authorities may accept sovereign debt backed by the full faith and credit of the following governments: Belgium, France, Germany, Italy, the Netherlands, and Spain. Foreign currency reserves are also invested at the Bank of International Settlements and in facilities at other official institutions. As of 31 December 2013, direct holdings of foreign government securities totalled $21.61 billion and foreign government securities held under repurchase agreements totalled $5.09 billion.

III. TRADE POLICY AND INVESTMENT REGIME

III.A Trade Policy Formulation and Framework

III.A.1 Recent Bills impacting Trade

(a) **Extending Incentives for Exporting American Textiles Act of 2013 (S.1883)**: To extend duty-free treatment for certain trousers, breeches or shorts imported from Nicaragua and for other purposes.[29]

(b) **GSP Update Act (S.1839)**: To amend the Trade Act of 1874 to authorise the President to designate certain luggage and travel articles as eligible for duty-free treatment under the Generalized System of Preferences (GSP).[30]

(c) **Green 301 Act (H.R. 3733)**: To amend the Trade Act of 1974 to authorise the USTR to take certain discretionary trade action against foreign countries that engage in unreasonable acts, policies, or practices that ail to enforce their environmental laws effectively.[31] Directs the USTR to identify the foreign country trade practices that affect negatively the environment of the US, the foreign country, a third country, or internationally.

---

[28] New York Federal Reserve, ' Treasury and Federal Reserve Foreign Exchange Operations: October-December 2013',

[29] Congress Gov., 'S.1883- Extending Incentives for Exporting American Textiles Act of 2013', http://beta.congress.gov/bill/113th-congress/senate-bill/1883 (last visited on Mar. 19, 2014).

[30] Congress Gov., 'S.1839 – GSP UPDATE Act', http://beta.congress.gov/bill/113th-congress/senate-bill/1839 (last visited on Mar. 19, 2014).

[31] Congress Gov., 'H.R. 3733 – Green 301 Act', http://beta.congress.gov/bill/113th-congress/house-bill/3733 (last visited on Mar. 19, 2014).

(d) **Emergency Port of Entry Personnel and Infrastructure Funding Act of 2013**: It directs the Secretary of the Homeland Security to hire, train and assign to duty by 20 September 2019 and additional 5000 full-time Customs and Border Protection officers to serve on all inspection lanes and enforcement teams at US land ports of entry on the northern and southern borders of the US and 350 full time support staff for all US ports of entry.[32] It further requires the Secretary to report to specified congressional committee on (1) DHS plans for ensuring the placement of sufficient CBP officers and infrastructure for outbound inspections at southern border land ports of entry and each relevant department's plans for ensuring the placement of sufficient CBP agriculture specialists. Animal and Plant Health Inspection Service entomologist identifier specialists, and food and drug Administration (FDA) consumer safety officers at such ports of entry.

(e) **Level the Playing Field in Global Trade Act of 2013 (S.1801)**: To ensure that goods are imported into the US reflect the real cost of paying an adequate living wage, upholding workplace safety standards, and maintaining basic environmental protections; and to provide a streamlined method for entities that meet those standards to satisfy the requirements of the amendments made by this Act.[33]

(f) **Digital Trade Act of 2013 (S.1788)**: Executive branch agencies, including the Office of the USTR, should be staffed with experts and leaders to promote an open, global internet that facilitates commerce and digital trade; and private sector stakeholders should have the opportunity to inform executive agency efforts related to digital trade.[34] States that it shall be a US negotiating principle in negotiations for a bilateral, plurilateral or multilateral agreement and in multi-stakeholder to seek the inclusion of binding provisions that promote and enhance Internet-enabled commerce and digital trade.

(g) **Putting Security First in Preclearance Act (HR. 3575)**: It authorizes the Secretary of Homeland Security to establish conditions for commencing US Customs and Border Protection (CBP) security screening operations at the preclearance facilities outside the US. Requires the Secretary to give the Congress 90-days-notice before entering into any agreement to commence security operations at such a facility.[35] Prohibits funding either directly or through reimbursement by a foreign person of CBP security screening positions at such facilities.

(h) **American Export Promotion Act of 2013 (S. 1748**): Authorizes appropriations for the industry and analysis unit of the International Trade Administration of the Department of Commerce for the ITA's Market Development Cooperator Program.[36] Requires in the use of such funds a preference to be given to activities that will assist small-and medium-sized US businesses and create jobs, obtain return on investment, increase US'

[32] Congress Gov., 'H.R. 3733 – Emergency Port of Entry Personnel and Infrastructure Funding Act of 2013', http://beta.congress.gov/bill/113th-congress/house-bill/3753 (last visited on Mar. 19, 2014).

[33] Congress Gov., 'S.1801 – Level the playing Field in Global Trade Act of 2013' http://beta.congress.gov/bill/113th-congress/senate-bill/1801 (last visited on Mar. 19, 2014).

[34] Congress Gov., 'S. 1788 – Digital Trade Act of 2013' http://beta.congress.gov/bill/113th-congress/senate-bill/1788 (last visited on Mar. 19, 2014).

[35] Congress Gov., 'H.R. 3575 – Putting Security First in Preclearance Act', http://beta.congress.gov/bill/113th-congress/house-bill/3575 (last visited on Mar. 19, 2014).

[36] Congress Gov., 'S.1748 – American Export Promotion Act of 2013', http://beta.congress.gov/bill/113th-congress/senate-bill/1748 (last visited on Mar. 19, 2014).

exports to Asia and Pacific region, increase US' exports in services and address Department export priorities.

(i) **Reciprocal Market Access Act of 2013 (H.R. 3467)**: Prohibits the President from agreeing to the reduction of elimination of the existing rate of duty on any product in order to carry out a trade agreement with a foreign country until the President certifies the Congress that: (1) the US has obtained that country's reduction or elimination of tariff or nontariff barriers and policies and practices with respect to US exports of any product that has the same physical characteristics and uses as the product for which the President seeks to modify its rate of duty, and (2) any violation of the trade agreement is immediately enforceable by withdrawal of the duty modification until the President certifies to Congress that the US has obtained the country's reduction or elimination of the tariff or nontariff barrier or policy or practice.[37]

Requires the withdrawal of such a modification in specified circumstances determined by the Interagency Trade Enforcement Center until the President makes such a certification to Congress. Requires the US International Trade Commission, with respect to any proposed trade agreement that seeks modification that would reduce or eliminate existing duty on any product in order to carry out a trade agreement with a foreign country to investigate the possible market access opportunities for similar US exports to that country if such barriers and policies are modified or eliminated.

III.A.2 World Trade Organization (For an update See Annex A)

(a) US rejects the establishment of Panel by South Korea on zeroing method

South Korea on 6 December 2013, sought the establishment of a panel to hear the dispute on US' tariffs on imported washing machines by using 'zeroing method' to calculate the tariffs. Such a step came after the consultations failed between the US and South Korea.[38]The dispute concerns with the US DOC's finding that South Korean companies were engaging in targeted dumping, which occurs when a company sells imports at unfairly low prices to particular customers in a certain geographic region, or during specific period of time. While the 'zeroing' method which does not provide offsets for 'negative dumping' has been criticised by many WTO members. The dispute also concerns with the imposition of countervailing duties against Samsung by the US DOC.

(b) US- Subsidies on Upland Cotton

Brazil postponed this 28 February 2013, a decision on whether to impose trade retaliation against the US exports in a long running dispute over US cotton subsidies, although it continues to lay the groundwork for potential retaliation.[39] A group of Brazilian ministers known as CAMEX said Brazil wants to give more time to the US to act – both to make settlements payments it owes to Brazil and to pass new farm

---

[37] Congress Gov., 'H.R. 3467- Reciprocal Market Access Act of 2013', http://beta.congress.gov/bill/113th-congress/house-bill/3467 (last visited on Mar. 19, 2014).

[38] Scott Flaherty, Law360, 'Korea Wants WTO to Weigh In On US Washer Duties', http://www.law360.com/articles/495012/s-korea-wants-wto-to-weigh-in-on-us-washer-duties (last visited Mar. 16, 2014).

[39] Sandler, Travis and Rosenberg Trade Report, 'New Farm Bill Leaves Open Possibility of Retaliation on Cotton Subsidies, Meat Labeling' (29 January 2014) http://www.strtrade.com/news-publications-farm-bill-trade-cotton-Brazil-meat-labeling-012914.html (last visited on Mar. 17, 2014).

legislation that would comply with the WTO. The US have to pay monthly payments of $12.25 million it agreed to pay Brazil as part of the interim deal to stave off retaliation until a resolution of the cotton case.

Brazil prefers to continue receiving payments under the interim agreement. Although most recent extension of the US farm bill expired on 30 September 2013, Congress has still not acted to pass new legislation. However, the US agriculture industry sources said they anticipate that the House- Senate conference on the farm bill will meet public on 8/9 Jan 2014 to sign off on a bill paving the way for final passage. The WTO in 2009 authorized Brazil to implement trade retaliation against the US for failure to comply with the ruling, including cross-retaliation under certain conditions. At its 18 December 2013 meeting CAMEX formally opened public consultations on potential retaliation on US IPR. Those consultations are to be continued by the end of January 2014. The decisions indicates that Brazil will pursue retaliation based on the amount that was authorized by the WTO in 2010, although it does not say so explicitly.

The move to use the 2010 amount is likely to be controversial since, if more recent data is used, Brazil would be entitled to a lower amount of retaliation. The loss of targeted goods would be the same one published in 2010 before the interim settlement was shut. Declining trade flows since 2010-due in part to China's becoming Brazil's trading partner and purposeful tweaking to a US agricultural export credit program also faulted in the case have diminished Brazil's retaliation rights downward to about $500 million. This is below the threshold beyond when it would be able to suspend IPR cross retaliation.

(c) Bali Ministerial Negotiations—US' Perspective

The US and India claimed victory in the fight over the controversial food security proposal after the two sides agreed to compromise language, clearing what has been viewed as the biggest hurdle to WTOmembers reaching a deal on a small package of trade concession.[40] The compromised text on food security, effectively states that a peace clause protecting certain public stockholding programs for challenges under WTO Agreement on Agriculture would stay in place until a permanent resolution is reached to modify the agreement's rules. Currently, public stockholding programs in which crops are procured at above market rates count towards a country's limit on trade-distortion subsidies under the Agreement on Agriculture.

The compromised text states that WTO members agree to reach a permanent solution within 4 years, but holds open the possibility that the peace clause could stay in effect if that goal is not reached. India reached a strong outcome and the US got concrete commercial benefits by obtaining binding language on the secured provisions in the trade facilitation agreement. USTR stated that the compromised text contains several safeguards to ensure that programs under the peace clause do not distort trade as such distortion could have serious food security effects on other countries which is why developing countries like Uruguay, Paraguay, Thailand and Ecuador had raised objections to the peace clause at various stages of negotiations. The three safeguards are:

1. Any developing country seeking to use the peace clause shall ensure that such programs do not distort trade;
2. Compromised language would only allow the peace clause to be applied to existing public stockholding programs;

[40] Inside U.S. Trade, 'India, U.S. Reach Food Security Deal, Clearing Hurdle to Bali Package' (12 December 2013) http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-12/13/2013/india-us-reach-food-security-deal-clearing-hurdle-to-bali-package/menu-id-710.html (last visited on Mar. 17, 2014).

3. Subsidies provided under public stockholding program is still subject to SCMA- which prohibits subsidies which are specific to certain industry and cause adverse effect to WTO members.

(d) **Argentina-Measures Affecting the Importation of Goods**

The US presented its second written submission to the panel on 14 November 2013 which detailed the US' legal basis for challenging Argentina's allegedly import-restrictive regime as inconsistent with the WTO rules.[41]

III.BPreferential Trade Agreements and Arrangements

III.B.1 Transatlantic Trade and Investment Partnership Agreement

During the quarter, second and third round of TTIP took place from 11-15 November 2013 and 16-20 December 2013 respectively. In the second round of negotiations the main areas of negotiations were: investment rules, trade in services, range of regulatory issues like regulatory coherence, technical barriers to trade, sectoral approaches as well as energy and raw materials supplemented by video conference on sanitary and phytosanitary measures and other topics. The USTR noted that the second round of negotiations has enabled the US to reflect on its approaches as regards specific trade and investment issues, discuss areas of potential convergence in greater detail, including with respect to services, investment and regulatory issues.

The third round of negotiations were based on issues like services, government procurement, energy and raw materials, sanitary and phytosanitary barriers, intellectual property rights, labor and trade issues, textiles, small and medium size enterprises, regulatory coherence and sectoral regulatory approaches. In the midst of the negotiations, both the EU and the US took time to share information with and hear viewpoints from more than 350 stakeholders from environmental, consumer and other non-governmental organizations, labor unions, business and academia. Both the US chief negotiator Mr Dan Mullaney and the EU chief negotiator Mr Ignacio Garcia Bercero participated in three hour session which included 50 policy presentation that covered a range of issues like: consumer and food safety, innovation and agriculture. While a number of negotiators continued the progress on services, market access, competition, trade facilitation, sectoral issues, investment, textiles, labor and environment, IPR and TBT.

Other major issues covered are market access for industrial and agricultural goods, rules of origin for these products, regulatory and standards which focused on trade regulation, SPS regulations primarily in the area of food safety, regulatory coherence and particular sectors, investment and services particularly in the areas of telecommunication, electronic commerce, cross-border services as well as financial services. Government procurement, IPR, labor, environment, SOEs, small and medium enterprises, (localization) barriers to trade, competition, raw materials and energy and legal and institutional issues were also part of the third round of negotiations.

During the press conference, the chief negotiator of the EU to the question by Inside US Trade provided that specific sectoral commitments in the TTIP Agreement has to be further negotiated as potential areas

[41] White & Case LLP General Trade Report-JETRO (November 2013), 'United States CONTINUES Challenging Argentine Import Regime before WTO', http://www.jetro.go.jp/theme/wto-fta/news/pdf/w_c_monthly_report-201311.pdf

of cooperation and trade has not yet come out as a close list of sectors, but he did point out that sectorslike automobiles, pharmaceuticals, medical devices, cosmetics, textiles, chemicals and ICT.

On the energy and raw materials sector, the EU showed an ambitious interest to secure a clear guarantee to access the US resources, while the US stated that in the export of natural gas in the US is deemed in the public interest, further it really depends upon customers, pricing and the private sector. The EU has been very clear that data privacy is not a part of TTIP while the US seeks opportunities to facilitate and support data flows as it is important to generate FDI and international competency.

On the investor-state dispute forum via TTIP, the US and EU clearly added that a balance should be struck between government's right to regulate and the investor's right to seek protection of its investment. Further, the US stated that it wishes to secure a strong investor protection which grants fair and equitable treatment to its investors abroad.

III.B.2 Trans-Pacific Partnership

Update on the quarterly negotiations

TPP negotiations are on track to completion as the members have made significant progress in recent months on all the legal texts and annexes on access to our respective goods and services, investment, financial services, government procurement and temporary entry markets. It is stated that the final TPP will reflect the common vision of the negotiators to establish a comprehensive next generation model for addressing both new and traditional trade and investment issues, supporting creation and retention of jobs in furtherance of economic development. TPP may reflect a model for future trade agreements, given the high, ambitious andpioneering standards on trade disciplines. It is said that TPP will fulfil the APEC goal of an FTA within the Asia-Pacific.

On 23 November 2013, the 3rd round of US-Japan Parallel Negotiation took place whereby the negotiations were held on issues like motor vehicles, insurance and other non-tariff measures. Further various meeting were held from 28 October 2013 to 24 November 2013 between the TPP negotiators on issues like: rules of origin, government procurement, state-owned enterprises, and investment, legal and institutional issues.

During the quarter an event was hosted by the World Wildlife Fund whereby the environmentalists underscored their support for the US' efforts to achieve strong outcomes for the environment, including conservation measures in the 12 countries. In addition to core enforceable commitments on trade-related issues that would help to reinforce environmental protection, the US is also advancing new proposals to tackle illegal wildlife and timber trade.

In the evening of 24 November 2013, the TPP negotiations ended the meetings with a substantial resolution on issues like: Intellectual Property Rights, cross-border trade in services, temporary entry, environmental market access, state-owned enterprises, sanitary and phytosanitary issues, government procurement, labor, e-commerce, legal issues, technical barriers to trade and rules of origin. Such further narrowed the target topics in the 4-day meeting of the TPP ministers in Singapore in the early December 2013.

The negotiators further in the meeting held in Singapore made substantial progress towards the completion of the TPP Agreement. According to sources, the ministers identified potential 'landing zones' for the majority of key outstanding issues in the text. It is stated that there is a commitment by the ministers to resolve the outstanding issues on the text as well as on the market access issues.

Entry of new countries in the TPP Negotiations

On 29 November 2013, the USTR announced that it welcomed Korea's expression of interest in the TPP negotiations. The US will be negotiating with Korea at an appropriate time to lay the groundwork for Korea's entry to TPP. The USTR stated that the US-Korea FTA already demonstrates that the US and Korea share common approach with regard to certain rules for trade and investment. However, as the TPP leaders and their teams are working to complete the negotiations, the possible entry of the any new country would be expected to occur after the negotiations among the current members are concluded. Prior to the entry of any new member, the member would have to complete domestic processes as appropriate.[42]

Taiwan has also expressed an interest in joining the TPP along with S. Korea, but have not made a concrete decision to formally seek accession in this quarter.[43] According to the New Zealand Trade Minister Tim Groser on 16 October 2013 speech stated that: *it is deeply improbable that any country will now join the TPP-12*, as negotiations reach their final stage. Therefore, it seems likely any expansion in TPP will only take place after the negotiators conclude the agreement. On 13 October 2013, the Malaysian Prime Minister gave the final decision on TPP Membership to the Parliament for discussion.

Important Issues in the TPP negotiations

(a) **Market Access**: Contentions remain for sensitive agricultural products like dairy, beef, sugar and rice while disagreements on such industrial goods as textiles, footwear and apparel, and autos are increasingly potent among the US lawmakers and between TPP negotiators. Several TPP countries seek to maintain existing liberalization schedules or carve-outs contemplated under existing FTAs. Such allows for a hybrid approach of bilateral and plurilateral negotiations to the US, whereby existing FTAs will remain valid while negotiations on tariff reduction with non-FTA members will be a priority. However, most of the TPP members prefer a uniform tariff reduction schedule so that the TPP will assist with the reduction or elimination of the FTA noodle-bowl syndrome of different, concurrent commitments and rules of origin.

(b) **Sanitary and Phytosanitary (SPS)** and Technical Barriers to Trade (TBT): The TPP member countries seek disciplines which are more ambitious than those contemplated under the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures. The aim of this "WTO-plus" approach is to reinforce science-based regulation and prevent introduction of undue compliance burdens on producers, processors and exporters. They also seek "WTO-plus" TBT disciplines in the TPP. The USTR asserts that the US TPP negotiators made progress in SPS and TBT discussions during an early-September TBT intersessional and a late-September 2013 meeting among the TPP countries' chief negotiators; however, the chapter areas remain unfinished as several issues remain outstanding. Outstanding SPS and TBT-related issue areas

[42] Baker &McKenzie, International Trade Compliance 'USTR responds to Korea's expression of interest in TPP', (December 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_International TradeComplianceUpdate_Dec13.pdf (last visited Mar. 19, 2014).

[43] White & Case LLP General Trade Report – JETRO (October 2013), 'TPP Leaders Meet on APEC Margins; Considerable Work Remains toward Finished Agreement' http://www.jetro.go.jp/theme/wto-fta/news/pdf/w_c_monthly_report-201310.pdf (last visited Mar. 19, 2013).

likely relate to: (1) the right of TPP members to implement health measures while in compliance with TPP's SPS and TBT commitments; (ii) the establishment of a rapid response mechanism (RRM) to resolve issues with perishable and time-sensitive shipments of agricultural products held up as result of SPS measures and TBTs. Although TPP negotiators discussed SPS and TBT matters at the late-September chief negotiators meeting, they did not appear to do so at the 3-8 October meeting in Bali where leaders aimed to reach political-level resolution in a reduced number of areas. With regards to the same, the TPP members have likely decided to address these issues during intersessional meetings in 2014.

(c) **Rules of Origin:** The largest barrier to the rules of origin chapter is the strict "yarn forward" rule included in US FTAs. This rule requires all constituent component in the apparel making process originate in an FTA country, starting from yarn and going forward. There is no indication that the US is prepared to concede its "yarn forward" rules in TPP, where Vietnam would be a major beneficiary. The Vietnamese apparel industry is the second largest supplier to the US and is becoming an increasingly cheaper and more viable alternative to China, the largest supplier. Malaysia also favors a liberal regime on rules of origin as a major apparel producer, but Mexico and Peru do not as they already reoriented their production towards meeting existing FTA commitments with the US. According to the TPP Trade Ministers' Report to the Leaders published on 8 October 2013, the Ministers made clear that their goal is "to develop trade-facilitating rules of origin that encourage cumulation across the region. It is, therefore, likely that the US-supported "yarn forward" rule will not retain its purest form. Malaysia and Vietnam prefer more liberal, cumulative rules of origin as they would enhance intra-regional trade prospects and mitigate the unintended consequences of trade diversion.

(d) **Custom Procedures**: TPP member countries seek ambitious disciplines on customs procedures in order to reduce administrative burdens on exporters or importers and prevent *de facto* trade barriers that often result thereof. Although the chapter on customs procedures has been relatively non-controversial, the US has lent significant importance to ensuring inclusion in the customs text of enforcement-related provisions. As the documentation supporting assertions of goods' origin is likely to be far more complicated than that required under previous US FTAs, simply by virtue of the number and disparate levels of bureaucratized development of the participating TPP members. USTR asserts that US TPP negotiators made progress in customs-related discussions during the late September 2013 meeting among the TPP countries' chief negotiators; however, TPP negotiators do not appear to have discussed customs on 3-8 October 2013 in Bali. The TPP members will likely to decide on such issues during intersessional meetings in 2014.

(e) **Investment**: Among the more substantial disagreements between TPP members is the investor-state dispute settlement (ISDS) mechanism. A key barometer for the state of negotiations is to note Australia's response to the proposals following the installation of the newly Liberal National Coalition led by the Prime Minister in September 2013. The previous coalition rejected the ISDS mechanism, but how the Abbot Administration may respond is not clear. The US is a strong proponent of the inclusion of an ISDS mechanism, such that Australia's opposition to it is a significant challenge to the near-term progress in negotiations for the TPP investment chapter area. USTR is also seeking to protect companies from all forms of expropriation. In particular disagreements center on the definition of "indirect" expropriations. In the past, "direct" expropriation meant the physical taking of property. Most international investment agreements also protect foreign companies against "indirect" expropriation, which can mean regulations and other government actions that reduce the value of a foreign investment. TPP negotiating governments are wary that protections against "indirect" expropriations may curtail their ability to introduce new laws and regulations.

(f) **Services**: Movement of service providers is one of the difficult areas. While the TPP will not create an easing of immigration rules, the agreement is expected to afford skilled professionals temporary labor mobility. However, there are such corollary issues as the mutual recognition agreements necessary to realize this mobility and the subsequent delivery of the particular service. The Obama Administration finds an ally among consumer watchdog groups, who are equally, if not more, concerned that the TPP may weaken the Dodd-Frank Act and other domestic financial regulations. The shared concern stems from the notion that the US financial industry will seek rollback or weaken domestic regulations by asserting TPP's higher authority. In this regard, the US-Korea FTA (KORUS) is the most recent US FTA in which the US negotiated provisions on financial services and is likely to serve as a reference for US TPP negotiators. Notably, KORUS does not prevent a party to the agreement from imposing prudential measures to ensure the integrity and stability of the financial system.

(g) **E-Commerce:** A major disagreement is how companies seeking to provide cross-border services should handle cross-border data flows. Such TPP countries as Australia and New Zealand argue that data should be stored locally in the country of a service provider's operations for security and privacy purposes. However, the US has proposed that TPP countries for security and privacy purposes. However, the US has proposed that TPP countries commit to not blocking cross-border transfers of data over the internet and to not requiring that servers be located in the country in order to conduct business in that country. Negotiators continue to exchange alternative texts, where Australia's case entails language consistent with its privacy laws that would give government's greater freedom to regulate personal data protections. By extension, US negotiators also seek equal treatment of digitally delivered goods and services, with respect to the TPP's overall goal of eliminating tariff and non-tariff barriers. Industry groups assert that such provisions will allow businesses to leverage access to regional internet-based products and services and cloud computing applications to do business throughout the trans-pacific region. TPP countries generally agree with the principles, but remain reserved on examining how digital trade may support a government's fiscal goals.

(h) **Legal and Institutional**: Uncertainties over legal and institutional issues remain, despite the common view that these areas are among the least controversial in the FTA negotiations. First, the US appears to be in disagreement with several TPP member countries with which it already has FTAs in regard to which agreement will prevail once TPP enters into force. US negotiators have suggested on perpetrated occasions that he FTA that will prevail in any given area is that which is "stronger", although they have declined to provide greater detail on this differentiation. TPP members, such as Australia, have sought in TPP to modify certain rights and obligations under their bilateral; FTAs with the US. Consequently, Australia unlikely agrees that the US should be able to reserve the right to apply one agreement over another depending on which is "stronger" in the subject matter at hand. Another area of concern is the issue of when TPP would enter into force for each member; the US historically has only entered an FTA into force when the partner country certifies in writing that it has complied with all commitments contemplated in the agreement. TPP members, such as Chile, assert that this unilateral ability not to apply the TPP that the US likely seeks to wield is tantamount to an encroachment on national sovereignty. Finally, there remain disagreements among TPP members over the scope of general exceptions to the TPP. Like most FTAs, TPP will likely have language toward the end of the agreement detailing the circumstances it undertook. Malaysia and the US have competing proposals on the rights of parties to implement tobacco control measures, and these competing proposals constitute a troublesome disagreement over the scope of related exceptions.

(i) **Government Procurement**: The debate over government procurement centers on protecting the right of governments to stimulate economic growth through public spending on domestically-produced goods against allowing foreign companies access to public procurement contracts. It remains unclear how TPP countries will tackle this challenge. While TPP countries acknowledge the need for liberalization in government procurement to a certain degree, governments are not prepared to fully concede the market, and they insist on carve-outs to maintain a policy space to exercise public spending as a policy tool. For example, Japan seeks a reversal of Buy American government procurement policies, much to the heavy opposition of US state governments and many federal-level lawmakers.

(j) **Competition**: Issues surrounding state-owned enterprise (SOE) disciplines largely fall under the competition chapter. On SOEs, a troublesome issue is the impact the proposed disciplines on the role of SOEs could have in regard to the provision of public goods and services, the development of strategic industries and the implementation of socio-development programs. Such developing countries as Malaysia argue that, while a level playing field is necessary for local and foreign companies to grow in the country, Malaysia's government-linked corporations (GLCs) are unique in the sense that they are oriented toward augmenting social welfare and providing opportunities to the unserved or underserved where market forces cannot reach them. The US is the most vociferous proponent of including strong SOE language in TPP, and its proposal reportedly seeks commercial neutrality for SOEs and puts forth a so-called "harm-test" to determine any injury an SOE may cause to commercial competitors. The US continues to engage other TPP countries in order to convince them of the virtues of its proposal.

(k) **Intellectual Property**: Issues surrounding public health access and copyright protection in trade of digital goods hamper negotiations on intellectual property rights (IPRs). Several TPP member countries prefer to maintain current Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) provisions as the baseline TPP IPR framework, while other intend to seize the opportunity to advocate for TRIPS-plus or TRIPS-plus-plus provisions. The former group argues that the heavy-handed regulation of intellectual property creates diminishing returns and may create the opposite effect of deterring innovation, and it may prevent access to such IPR-centric goods as breakthrough medicines. An emerging issue on copyright protection and enforcement is how the TPP would curtail internet freedom and fair use. As awareness of the TPP negotiations grows, many so-called "neitizens" argue that TPP would place a chilling effect on the internet as a distribution and knowledge sharing platform. These netizens in the US and other TPP countries urge elected representatives to scrutinize the TPP's rules and regulations on internet use, and observe the increasingly global expectation that the access to the internet is a fundamental right and freedom. The US general takes the position that no law or government policy should impinge on internet freedom.

The TPP chapter on IP was published by WikiLeaks, which reveals the details of a counterproposal or pharmaceutical IP protections tabled by five countries at the Brunei round of talks. It falls far short of US demands. According to the text, the counterproposal tabled by New Zealand, Canada, Singapore, Chile and Malaysia omits three protections for pharmaceuticals IP that are key components of the US proposal in TPP and have been demanded by US brand-name drug manufacturers. They are data exclusivity, patent term extensions and patent linkage. The US proposal would give brand-name drug companies enhanced protections in these three areas if they sought marketing approval in a TPP country for a given product within a certain period of time after it had been authorized for sale in another TPP country. But the US has never specified the length of this "access window", and the proposal has been faced significant opposition from nearly all TPP countries. The leaked text indicates that as of 30 Aug, the US had not tabled a revised proposal on pharmaceutical IP protections or specified the data exclusivity term for biologic drugs. Informed sources said this still holds true today, even though IP negotiators have held two intersessional meetings since then. A US trade official said during the Brunei round that the US was in the final stages of its internal deliberations on whether and how to table a new proposal on pharmaceuticals.

The counterproposal on medicines, which also contains other elements at odds with the US demand was part of a 9-page IP Chapter dated 30 August which called into question the broader TPP agreement can be concluded this year. According to Knowledge Ecology International, a non-governmental organization critical of the US IP proposal, the chapter contains 941 brackets, which indicates issues that TPP countries have yet to resolve. The brackets occur in a wide range of issues, including general provisions, trademarks, geographical indications, copyrights, patents, pharmaceutical products, and enforcement. For a large number of bracketed issues, the text identifies the different positions TPP countries are taking. The leaked text shows that several countries have pushed back against copyright and enforcement protections proposed by the US. For instance, a number of countries are opposing US demands for copyright terms of life plus 70 years for natural persons and 95 years for corporate-owned works.Various blocs of TPP countries have also proposed less stringent wording than the US when it comes to penalties against breaking so-called "digital locks" and schemes to protect internet service providers against liability for infringing material posted on their sites.

The first US demand omitted in the counterproposal is for countries to provide five years of data exclusivity. Data exclusivity refers to the requirement that brand-name drug makers get exclusive rights to test data showing the safety and efficacy of the drug that are submitted in connection with marketing approval of a new drug. The counterproposal does not require countries to provide data exclusivity, but only to protect test data submitted in connection with marketing approval against unfair commercial use, which is the same obligation contained in the multilateral Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The counterproposal also contains language enumerating seven ways that countries can narrow the scope of the DTA protection they provide, which would curtail the benefits for brand-name pharmaceutical companies. These include limiting protection to undisclosed test or other data that required considerable effort to originate; to drugs which utilize a new chemical entity; or to a period of time as determined by the party. It also contains language making clear that countries can override their data protection obligation if they issue a compulsory license for the production of a generic form of patented medicine.

The second US demand lacking in the counterproposal is the obligation for countries to compensate right holders for administrative delays in the patent process by granting extensions to patent terms. Although the counterproposal does not require countries to institute patent extensions it does encourage parties to implement measures to improve the quality and efficiency of patent processing and drug marketing approval. The counterproposal contains language which aims to encourage members for timely entry of pharmaceutical products. Among these is the language laying out eight broad objectives for the IP chapter that the US and Japan are opposing, according to the leaked text. These objectives include things like enhancing the role of IP in promoting economic and social development, maintaining the balance between right holders and the legitimate interests of users and the community and ensuring that measures to enforce IP rights do not themselves become barriers to legitimate trade.

Another provision in the counterproposal fights back against the US demand that countries allow patents for certain types of diagnostic, therapeutic and surgical procedures. The US has scaled back an initial proposal that would require countries to allow patents on all types of surgical methods to cover only ones that use a machine manufacturer or composition of matter. But the counterproposal from five countries states that each party may exclude diagnostic, therapeutic and surgical methods from patentability. The counterproposal also pushes back against a US proposal that would prevent countries from allowing pregnant opposition for patents. Pre-grant opposition gives generic companies a cheaper and faster way to invalidate a patent as opposed to litigation after a patent is granted. The counterproposal does not require countries to allow pre-grant opposition, but merely states that each party shall provide a procedure for third person to oppose the grant of a patent, either before or after the grant of a patent or both.[44]

(l) **Labour and Environment**: The primary disagreement in these two chapters lies between the preference for more consultations-oriented dispute settlement mechanism and the preference for punitive measures-driven mechanisms. The former preference by such developing countries as Malaysia aims for a conversion towards identifying common goals to build confidence based on such consensus, largely reflecting a cultural preference toward such business conduct. In contrast, countries with strong legal frameworks and industries, including the U, prefer a clear proclamation of legal procedures and repercussions. On the employee side of the chapter, US labor unions continue to push for freedom of association and collective bargaining in the TPP reflected in the 1998 Declaration on Fundamental Principles and Rights at Work of the International Labor Organization (ILO). The goal is to prevent TPP signatories from lowering labor standards to attract investment, and conversely, use labor standards as protectionist policies. However, stakeholders note that meeting these commitments is difficult for Vietnam, which reportedly does not allow organized labor beyond existing state-run unions. Issues surrounding potential conflicts between national- and subnational-level jurisdictions hamper progress in the environment chapter. For countries like Malaysia, authority over environment and national resources are a state-level power. It is not immediately clear how these issues will be resolved, as it has more to do with domestic politics than trade policy.

(m) **Horizontal Issues**: According to the TPP Trade Ministers' Report to the Leaders, TPP negotiators seek to leverage the agreement to make advancements in APEC work. These issues include (1) regulatory and other non-tariff barriers; (2) competitiveness and business facilitations; (3) small-and medium sized enterprises; and (4) capacity building, cooperation and development. The issue of non-tariff barriers is one of the more significant offensive interests of the US in the TPP negotiations. The goals of the effort include to "improve regulatory practices, promote transparency and conduct regulatory processes in a more trade-facilitative manner, as well as to coordinate approaches in specific sectors'. However, the difficulty lies in distinguishing non-tariff measures with legitimate public policy objectives from trade-diverting non-tariff barriers.

III.B.3 International Services Agreement Negotiations

[44] World Trade Online, 'Leaked TPP IP Chapter Reveals Details of Conflicting Drug Proposals' (14 November 2013) http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-11/15/2013/leaked-tpp-ip-chapter-reveals-details-of-conflicting-drug-proposals/menu-id-710.html (Mar. 19, 2014).

The USTR chaired a public hearing on 3 December 2013 before the Interagency Trade Policy Staff Committee (TPSC) to solicit comments and input on US negotiating objectives for the International Services Agreement (ISA).[45] The proposed agreement would include 21 trading partners, representing 47 economies and nearly two-thirds of global trade in services, who are interested in growing services trade with the US and each other. Three out of four Americans currently work in service sector, and further opening the services trade can support broader US exports and American jobs. Witnesses representing industry associations, retailers, financial service providers, information and communications technology firms, labor unions and non-governmental organizations testified about the trade potential in US service exports before a panel of US government officials from the department of state, commerce, treasury and labor in addition to USTR raised several topics for consideration, including enhanced market access and national treatment, cross border trade data flows, regulatory barriers and regulatory discretion, state-owned enterprises and a host of sector-specific recommendations.

III.B.4 Information Technology Agreement

Parties held negotiations towards the expansion of the Information Technology Agreement (ITA) from 21-24 October 2013.[46] The parties has decided in July 2013 to suspend such negotiations due to China's request for the exclusion of 106 of the 256 products from duty-free treatment under the expanded ITA; however, China subsequently held bilateral discussions with the US during which China agreed to submit a revised sensitivities list, which allowed parties to proceed with this most recent late-October round. China has reportedly removed from its sensitivities list one-third of the high-tech goods for which it had originally sought exclusion from duty-free treatment. However, China is seeking long-tariff phase-out periods for approximately half of the sensitive tariff lines appearing on its revised list. Specifically, China's revised list identifies approximately 140 sensitive tariff lines out of the total of 250 items under negotiation.

China is seeking exclusion for approximately half of these sensitive items, while seeking long tariff phase-out periods for the remaining half. As other ITA members generally agreed, the phase-out periods will be three years for non-sensitive items; five years for sensitive items and more than five years for exceptional cases. A trade diplomat involved in the negotiations asserted that the items shifted to the phase-out list include certain medical devices, semi-conductor manufacturing equipment and printers, all of which the Washington-based Information Technology Industry Council (ITI) has identified as essential for inclusion in the expanded ITA. Notably, China proposes a tariff phase-out period of longer than five years for approximately 30 products.

An official involved in the negotiations noted that the phase-out lit is "good", given that "some of the items are quite critical" for some ITA members. As several of the products in the phase-out list are consumer goods that have a short life cycle, such that phase-out periods of greater than five year for such products would be of little use. These concerns constitute major reasons for which the ITA negotiations will likely proceed slower than previously expected. The US appears to have informally linked China's engagement in the ITA talks to its participation in the Trade in Services Agreement (TISA). China recently declared its interest in joining TISA but the US expressed several reservations and concerns that

[45] USTR, 'Interagency Trade Policy Group Holds Public Hearing on Negotiating Objectives for International Service Agreement Negotiations' (3/12/2013) http://www.ustr.gov/about-us/press-office/press-releases/2013/march/tpsc-services-hearing (last visited March 16, 2014).

[46] White & Case LLP General Trade Report –JETRO (November 2013) 'China Agrees to Reduce ITA Exclusion List; Still Seeks Longer Phase-out Periods' http://www.jetro.go.jp/theme/wto-fta/news/pdf/w_c_monthly_report-201311.pdf (last visited Mar. 17, 2013).

China's participation in the TISA negotiations may reduce the Agreement's level of ambition and hamper its negotiations, citing China's original low-ambition market access offer in the ITA expansion negotiations.

III.C Investment Agreements and Policies

III.C.1 US-Libya Trade and Investment Framework Agreement (TIFA)

The US and Libya signed a Trade and Investment Framework Agreement (TIFA) provides a forum to address trade issues and will help build trade and investment relations between the US and Libya.[47] It shall establish a joint US-Libya Council on Trade and Investment which will address a wide range of trade and investment issues including market access, intellectual property, labor, and environmental issues. The Council will also help to increase commercial and investment opportunities by identifying and working to remove impediments to trade and investment flows between the US and Libya.

III.C.2 US-Bangladesh Trade and Investment Cooperation Forum Agreement (TICFA)

The US and Bangladesh signed TIFCA on 11 December 2013. It provides a mechanism for both the governments to discuss trade and investment issues and areas of cooperation.[48] The USTR said that due to TIFCA the US will also be able to track and discuss Bangladeshi efforts to improve worker safety and worker rights. The USTR stated that both the US and Bangladesh will prevent any more tragedies in Bangladesh's ready-made garment sector.

III.C.3 US-Morocco Bilateral Trade Facilitation Agreement

The US and Morocco signed a Trade Facilitation Agreement that represents a forward-leaning, 21st century agreement on modernizing custom practices.[49] The agreement builds on the US-Morocco FTA and includes provisions covering internal publication, transit, transparency with respect to penalties and other issues that will further Morocco's competitiveness and benefit its trade environment. Morocco is the first country in the region to conclude a bilateral trade facilitation agreement as well as to endorse joint principles on investment and information communication technology services trade with the US.

III.C.4 US-Central Asia TIFA

On 15 November 2013, the USTR announced that senior government officials from each of the Trade and Investment Framework Agreement (TIFA) Parties and Afghanistan met in Turkmenistan for the 8thUS-Central Asia TIFA Council Meeting.[50] This is the second consecutive year that TIFA Council has met in Central Asia. During the plenary session, the Parties discussed the overall trade and investment

---

[47] USTR, 'United States, LIBYA Sign Trade and Investment Framework Agreement', http://insidetrade.com//index.php?option=com_iwpfile&file=dec2013/wto2013_3781.pdf (last visited on Mar. 19, 2014).

[48] USTR, 'United States, Bangladesh Sign Trade and Investment Cooperation Forum Agreement (TICFA)' http://www.ustr.gov/about-us/press-office/press-releases/2013/November/US-Bangladesh-TICFA-Signing(last visited on Mar. 19, 2014).

[49]USTR, 'United States, Morocco Sign Bilateral Trade Facilitation Agreement', http://www.ustr.gov/press-office/press-releases/2013/November/US-Morocco-Trade-Facilitation-Agreement(last visited on Mar. 19, 2014).

[50] Baker &McKenzie, International Trade Compliance, 'US-Central Asia TIFA meeting ends' (December 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_International TradeComplianceUpdate_Dec13.pdf (last visited on Mar. 19, 2014)

environment in Central Asia and the US. The parties also focused their discussion on a number of areas: including energy, trade, investment, WTO membership, customs and procurement. Additionally, the Parties discussed trade, transit and investment between Central Asia and Afghanistan. The US proposed to the TIFA Council that it initiates discussions on a memorandum of understanding (MOU) on joint efforts to promote the economic empowerment of women and women's entrepreneurship. On 13 November, the TIFA working groups on customs, energy trade, and women's economic empowerment met to discuss these issues to plan future work. The TIFA working groups also metand worked to resolve a number of bilateral trade and investment issues, and discussed how to increase trade and investment issues during 2013-2014. Washington DC will host the next TIFA Council meeting in 2014.

III.C.5 US-China Joint Commission on Commerce and Trade

The US and China met for the annual JCCT from 19-20 December 2013.[51] China made four commitments including on government procurement and pharmaceutical patent applications. While it agreed to vague statements in other areas and failed to address several issues which were highlighted by the US. On Government procurement, China committed to accelerate its negotiation on accession to the WTO Agreement on Government Procurement (GPA) and submit a revised offer in 2014 that is on the whole commensurate with the coverage of GPA parties. The business sources expressed frustration due to non-representation at JCCT given Chinese restrictions on telecommunications and business services, the slow pace at which Chinese regulators are approving agricultural biotechnology traits; and anti-monopoly cases in which the Chinese government is charging that foreign companies have charged illegally high prices in violation of anti-monopoly laws.

Further, China committed that its working group for combating intellectual property rights infringement would develop "as a priority item in its 2014 Action Plan", an action program on trade secret protection and enforcement. The actions plan is expected to include committed enforcement actions; improvements of "public awareness about the importance of not infringing trade secrets and the penalties for infringement and requirements for strict compliance with all laws, regulations, and measures on trade secret protection and enforcement by all enterprises and individuals. In all, the JCCT meeting was progressive in the field of government procurement, trade secrets and patent protection and CCC testing and certification but the implementation needs to be seen for such negotiations to be effective. The US is concerned with China's actions in continued indigenous innovation policies, enforcement of anti-monopoly law, "glacial" opening of service sectors to US businesses and its refusal to submit a commercially meaningful offer in talks to expand the Information Technology Agreement.

IV. TRADE POLICIES AND PRACTICES BY MEASURE

IV.A Measures Directly affecting imports

IV.A.1 Custom valuation

(a) Quarterly custom interest rates

On 23 October 2013, the US Customs and Border Protection (CBP) published in the Federal Register a general notice advising the public of the quarterly Internal Revenue Service interest rates used to calculate

[51] World Trade Online, 'JCCT Yields Some Progress, Including On Patents; China Pledges New GPA Offer' (20 March 2014) http://insidetrade.com/201312202456570/WTO-Daily-News/Daily-News/jcct-yields-some-progress-including-on-patents-china-delays-gpa-offer/menu-id-948.html (last visited on Mar. 19 2014).

interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties[52]. For the calendar quarter beginning 1 October 2013, the interest rates for overpayments will be 2% for corporations and 3% for non-corporations, and the interest rate for underpayments will be 3% for both corporations and non-corporations.

IV.A.2 Tariffs

(a) CBP issues interim regulations to implement US-Panama TPA

On 23 October 2013, the CBP publishes in the Federal Register interim regulations[53] to implement the preferential tariff treatment and other customs-related provisions of the US-Panama Trade Promotion Agreement (PANTPA) entered into by the US and the Republic of Panama.[54] The interim regulations which add a new Subpart S to Part 10 of the CBP regulation (19 C.F.R.), as well as making conforming changes throughout title 19 C.F.R., were effective in 23 October 2013. On 21 October 2011, the President signed into law the US-Panama Trade Promotion Agreement Implementation Act (the Act), Pub. L. 112-43, 125 Stat. 497 (19 U.S.C. 3805 note), which approved and made statutory changes to implement the PANTPA. Section 103 of the Act requires that regulations be prescribed as necessary to implement the provisions of the PANTPA.

On 29 October 2012, the President signed Proclamation 8894 to implement PANTPA. The proclamation which was published in the Federal Register on November 5, 2012 (77 Fed. Reg. 66507), modified the Harmonized Tariff Schedule of the United States (HTSUS) as set forth in Annexes I and II of Publication 4349 of the US International Trade Commission. The modifications to the HTSUS include the addition of new General Note 35, incorporating the relevant PANTPA rules of origin as set forth in the Act, and the insertion throughout the HTSUS of the preferential duty rates applicable to individual products under the PANTPA where the special program indicator "PA" appears in parenthesis in the "Special rate of duty sub column". The modification to the HTSUS also included a new Subchapter XIX to Chapter 99 to provide the temporary tariff-rate quotas and applicable safeguards implemented by the PANTPA, as well as modifications to Subchapter XXII of Chapter 98. After the Proclamation was signed, CBP issued instruction to the field and the public implementing the Agreement by allowing the trade to receive the benefits under the PANTPA effective on or after 31 October 2013.

IV.A.3Contingency measures

(a) Anti-Dumping Measures (See Annex B)

- Notifications under Article 16.4 of the Antidumping and Countervailing Agreement by the United States during September 2013.[55]

Product	Country
Circular welded non-alloy pipe	Mexico
Ferrosilicon	Russian Federation, Venezuela, Republic of Bolivarian

[52] Baker &McKenzie, International Trade Compliance, 'CBP publishes quarterly interest rates', (November 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_International TradeComplianceUpdate_Nov13.pdf (last visited on Mar. 19, 2014).

[53] USCBP-2013-0040; CBP Dec 13-17

[54] Baker &McKenzie, International Trade Compliance, 'CBP issues interim regulations to implement the US-Panama TPA' (November 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_International TradeComplianceUpdate_Nov13.pdf (last visited on Mar. 19, 2014).

[55] Note by the Secretariat, 'Reports under Article 16.4 of the Agreement', (September 2013) G/ADP/N/248.

Narrow woven ribbons with woven selvedge	Chinese Taipei
Pasta	Italy
Polyethylene retail carrier bags	Thailand
Polyethylene terephthalate film, sheet and strip	Brazil, India and Chinese Taipei
Purified carboxymethylcellulose	Finland and Netherlands

(a) Notification under Art. 16.4 of the Antidumping Agreement by the US in November 2013.[56]

Product	Country
Preserved mushrooms	China
Seamless refined copper pipe and tube	China
Small-diameter carbon and alloy seamless standard, line and pressure pipe	Romania
Small-diameter graphite electrodes	China
Solid urea	Russian Federation
Steel nails	China
Steel threaded rod	China

(b) Notification under Art. 25.11 of the Subsidies and Countervailing Agreement during September 2013.[57]

Product	Country
Drill Pipe	China
Frozen Warm Water Shrimp	China, Ecuador, India, Indonesia, Malaysia, Thailand and Viet Nam
Oil country tubular goods	China
Pasta	Italy
Polyethylene terephthalate film, sheet and strip	India

(c) Notification under 25.11 of the Subsidies and Countervailing Agreement during November 2013.[58]

Product	Country
Chlorinated isocyanurates	China
Circular welded carbon steel pipes and tubes	Turkey
Corrosion-resistant carbon steel flat products	Republic of Korea
Grain-oriented electrical steel	Chin
Hardwood and decorative plywood	China
Kitchen appliance shelving and racks	China
Lined paper products	India
Monosodium glutamate	China and Indonesia
Non-oriented electrical steel	China, Republic of Korea, Chinese Taipei

(a) Quantitative trade measures, restrictions, controls and licensing

1) Import restrictions on certain pre-Colombian artefacts

[56] Note by the Secretariat, 'Reports under Article 16.4 of the Agreement', G/ADP//251 (November 2013)
[57] Note by the Secretariat, 'Reports under Article 25.11 of the Agreement', G/SCM/N/264 (Sept. 2013).
[58] Note by the Secretariat, 'Reports under Article 25.11 of the Agreement', G/SCM/N/266 (Nov. 2013).

On 24 September 2013, the Department of State published in the Federal Register a notice [Public Notice 8479] proposing to extend the Memorandum of Understanding Between the Government of US and the government of Republic of Honduras concerning the imposition of import restrictions on Archaeological Material from the Pre-Colombian Cultures of Honduras (MOU).[59] The Government of the Republic of Honduras has informed the Government of the US of its interest in an extension of the MOU. Pursuant to the authority vested in the Deputy Secretary of State, and pursuant to the requirement under 19 U.S.C. S.2602 (F) (1), an extension of this MOU is hereby proposed. Pursuant to 19 USC S2602 (f) (2), the views and recommendations of the Cultural Property Advisory Committee regarding this proposal will be requested.

IV.A.4 Technical regulations and standards (See Annex C)

IV.A.5 Sanitary and phytosanitary measures (See Annex D)

IV.B. Measures Directly Affecting Exports

IV.B.1 Custom procedures and documentation

(a) Nomenclature changes

On 22 October 2013, the Import Administration, International Trade Administration, Commerce, published in the Federal Register a final rule making nomenclature changes to the Code of Federal Regulations.[60] From 1 October 2013, the Department of Commerce, through internal department organizational orders, changed the name of 'Import Administration' to 'Enforcement and Compliance'. The rule makes appropriate conforming changes in the CFR. The rule also sets forth a Savings Provision that preserves, under the new name, all actions taken under the name of Import Administration and provides that any references to Import Administration in any document or other communication shall be deemed to be references to Enforcement and Compliance. This rule is effective from 21 October 2013.

(b) Foreign import/export license requirements by BIS

The BIS posted information of foreign import/export license requirements (Hong Kong and Singapore) which advises exporters that they should be aware that the foreign customers may be required obtain import and re-export licenses from their own government whether or not an individually validated US export license is required.[61] BIS strongly encourages US exporters to know whether foreign customers are obligated to obtain licenses. As a best practice, prior to shipment, BIS recommends US exporters provide foreign customers with the Export Control Classification Number (ECCN) of items to be exported and request a copy of any required licenses. Failure of a foreign customer to honour a request to provide a

---

[59] Baker &McKenzie, International Trade Compliance, 'State proposes extension on MOU with Honduras imposing import restrictions on certain Pre-Columbian artifacts' (October 2013) http://www.bakermckenzie.com/files/Publication/f1cff284-482e-4905-b70e-75afc2312759/Presentation/PublicationAttachment/6dfdd24c-72ed-4139-96f0-7c03cd98322e/NL_NA_InternationalTradeComplianceUpdate_Oct13.pdf (last visited on Mar. 19, 2014).

[60] Baker &McKenzie, International Trade Compliance, 'Import Administration; changes to 'Enforcement and Compliance'' (November 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_InternationalTradeComplianceUpdate_Nov13.pdf (last visited on Mar. 19, 2014).

[61] Baker &McKenzie, International Trade Compliance, 'BIS posts foreign import/export license requirements (Hong Kong and Singapore)' (December 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_InternationalTradeComplianceUpdate_Dec13.pdf (last visited on Mar. 19, 2014).

cop of any required licenses would present a "red flag" that indicates an export may be destined for an inappropriate end use, end user or destination. Officials of Hong Kong and Singapore's trade agencies recently requested that BIS remind US exporters of their licensing requirements.

IV.B.2 Official support

(a) Department of Energy grants an increase of 0.4bcf/d of liquefied natural gas

The Department of Energy (DOE) conditionally authorized on 15 November 2013 the exportation of 1.8 billion of cubic feet per day (bcf/d) of liquefied natural gas (LNG) on the part of Freeport long Expansion, LP and FLNG Liquefaction, LLC (Freeport) to countries with which the US has not entered a free-trade agreement (FTA).[62] This represents an increase of 0.4 bcf/d since DOE first authorized Freeport to export to these countries in May 2013. Section 3 of the Natural Gas Act (15 U.S.C. S 717b) requires DOE approval for all exports of LNG, including exports to countries that have an FTA with the US. However, exports to non-FTA countries are subject to a discretionary "public interest" test, and DOE may refuse to grant permission to export if it finds that the exports "will not be consistent with the public interest". For the purposes of Freeport's recent authorization to export an additional 0.4 bcf/d DOE reportsto have examined 'economic, energy security and environmental impacts as well as public comments for and against Freeport's application. DOE subsequently determined that the additional export volume from the Freeport terminal for a period of 20 years was not inconsistent with the public interest. While natural gas exports are boosting the US economy and reducing deficits, it may potentially harm US energy security as well.

IV.B.3 Prohibitions

(a) **S. 421 of the Trade Act of 1974**, an amendment to the law which was enforced on 2001 and established a special safeguard allows for exports expired 21 December 2013.[63] The safeguard allows for imposition of higher tariffs and quotas against Chinese exports in case of surge in imports that causes or threatens to cause injury to US producers. It was negotiated as a part to China's accession plan to WTO, based on the principle that China would not get the full benefit of the agreement as it was not in the position to take all its obligations. The safeguard was used once when the President Obama approved a determination by ITC that imports of Certain Chinese rubber tyres were injuring US tire manufacturers. During the Bush Administration, the ITC found that injury in numerous cases involving a range of manufactured goods including pedestal, activators, ductile iron-water works, filings, steel wire, garment hangers and circular welded non-alloy steel pipes. But the safeguard measure never received the green light from Bush. Although the section expires on 13 December 2013, a separate provision negotiated as part of China's accession to the WTO will allow the US to continue to treat China as a non-market economy in antidumping investigation until 2016.

I.V.C Other Measures Affecting Investment and Trade

IV.C.1 Trade promotion

[62] White & Case LLP General Trade Report- JETRO (November 2013), 'DOE Grants License for Additional LNG Exports to Non-FTA Partners' http://www.jetro.go.jp/theme/wto-fta/news/pdf/w_c_monthly_report-201311.pdf (last visited on Mar. 17, 2013).

[63] World Trade Online, 'Section 421 Safeguard Expired Dec. 11,12 Years After China's WTO Accession', (13 December 2013) http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-12/13/2013/section-421-safeguard-expired-dec-11-12-years-after-chinas-wto-accession/menu-id-710.html (last visited on Mar. 19, 2014).

(a) **Trade Priorities Act of 2014:** In consultation with the Congress, the Obama Administration is pursuing an ambitious trade negotiating agenda. Given that the US is negotiating agreements with 11 Asia-Pacific economies, 28 Member countries of the European Union, 22 other countries for a trade in services agreement and 159 Members of the World Trade Organization. As well as combined US negotiations with the Asia-Pacific and the EU would open markets with nearly 1 billion consumers covering nearly two-thirds of global GDP and 65% of global trade.

TISA covers about 50% of global GDP, as well and over 70% of global services trade, Reviewing TPA which expired in 2007, is necessary to successfully conclude these negotiations and for Congressional consideration of implementing legislation. TPA 2014 includes three main components: (1) it directs the administration to pursue Congressional prerogatives through Congressionally-mandated negotiating objectives; (2) Establishes robust consultation and access to information requirements before, during and after negotiations that ensure an open and transparent process for Members and the public; and (3) Preserves Congressional prerogatives and gives Congress the final say in approving trade agreements through procedures providing for an up-or-down vote on the final implementing bills without amendment.

Through TPA Congress sets clear and ambitious negotiating agenda for the Administration and puts US trading partners on notice about Congressional expectations. TPA 2014 updates and modernizes existing negotiating objectives to ensure that US trade agreements are the best in the world and open markets to US goods and services and investment. TPA 2014: established new goods and services objectives for the digital age; strengthens rules for agriculture; maintains balanced objectives for investment; protects intellectual property and updates labor and environment. Further it addresses: currency manipulation, impact of SOEs, seeks improved regulatory practices, takes on localization barriers to trade, promotes global value chains, seeks strong enforcement and preserves trade remedies. It further strengthens consultations with the Congress and the Public and keeps Congress in control of implementing bills.

IV.C.2 Government procurement

(a)Restrictions on the purchase of Chinese products

14 high tech business group pressed leaders of the House appropriations committee to replace provisions restricting government purchase of information technology systems from entities owned, directed, subsidized by Chinese government.[64] The provision which was first inserted as S. 516 in the continuing resolution in March and then included in the most recent 3 month continuing resolution has led to hold ups in government procurement projects. The current continuing resolution expires on 15 January 2014.

The letter sent by the business group to the house appropriations committee urged the congress to replace S. 516 with the language included by the Senate Appropriations Committee in CFS funding bill on July. As that provision instead prohibited funding for 'high-impact' info technology acquisitions unless the acquiring department or agency had assessed the supply chain risk of technology. Such would focus efforts on riskier IT systems and be directed at how a system is designated or built rather than where it originated. Further, cyber security can be increased without having an unintended consequence on

[64] World Trade Online, 'Tech Groups Lobby to Remove China-Specific IT Procurement Restriction' (13 December 2013) http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-12/13/2013/tech-groups-lobby-to-remove-china-specific-it-procurement-restriction/menu-id-710.html (last visited on Mar. 19, 2014).

international trade. Current provision is too broad and the scope of IT product is not defined. India and China have further justified their discriminatory measures based on the country of origin on the actions of US and the US should lead by example that such measures should not be placed given its impact on trade.

(b) Croatia as a designated country under WTO GPA

On 25 November 2013, the Department of Defense (DoD), General Services Administration (GSA) and National Aeronautics and Space Administration (NASA) published in the Federal Register a final rule[65] amending the Federal Acquisition Regulation (FAR) to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). On 1 July 2013, Croatia joined the EU, which is a party to the WTO GPA. The final rule was effective on 25 November 2013.[66]

(c) US signs UN Arms Treaty

On 25 September 2013, the US State Department announced that Secretary of State Kerry signed he UN Arms Trade Treaty, which has been signed by 90 countries, but only ratified by four, addressed the illicit trade in conventional weapons, while preserving the right to for signatories to regulate their domestic trade.[67] When the treaty was passed by the UN General Assembly earlier this year, the vote was 154-3 with only North Korea, Iran and Syria voting against it, although 23 members abstained. The Treaty requires the countries to establish import and export controls for tanks, combat vehicles and aircraft warships, missile and artillery systems, small arms and light weapons. The Treaty must be ratified by 50 countries to enter into force. The National Rifle Association has said that it will fight US ratification of the Treaty, even tough it reaffirms the sovereign right of each country to decide for itself, consistent with its own constitutional and legal requirements, how to deal with the conventional arms that are exclusively used within its borders and therefore does not affect domestic sales or undermine the US constitutional right to bear arms.

(d) Trade-related intellectual property rights

2013 Special 301 Report

The 2013 Special 301 review examined IPR protection and enforcement in 95 trading partners. After an extensive research and analysis, USTR listed 41 trading partners below as follows:

Priority Foreign County: Ukraine

Priority Watch List: Algeria, Argentina, Chile, China, India, Indonesia, Pakistan, Russia, Thailand and Venezuela

Watch-List: Barbados, Bolivia, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, Finland, Greece, Guatemala, Israel, Italy, Jamaica, Kuwait, Lebanon, Mexico, Paraguay, Peru, Philippines, Romania, Tajikistan, Trinidad and Tobago, Turkey, Turkmenistan, Uzbekistan, Veitnam.

[65] FAC 2005-71; FAR Case 2013-019; Item II; Docket No. 2013-0019, Sequence No. 1

[66] Baker and McKenzie, International Trade Compliance, 'Government Procurement – Addition of Croatia as eligible country' (December 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_International TradeComplianceUpdate_Dec13.pdf (last visited on Mar. 19, 2014).

[67] Baker &McKenzie, ' US signs UN Arms Trade Treaty' (October 2013) http://www.bakermckenzie.com/files/Publication/f1cff284-482e-4905-b70e-75afc2312759/Presentation/PublicationAttachment/6dfdd24c-72ed-4139-96f0-7c03cd98322e/NL_NA_InternationalTradeComplianceUpdate_Oct13.pdf (last visited on Mar. 2014).

Priority foreign country reflects the nation with most egregious IPR-related acts, policies and practices with the greatest adverse impact on relevant US products, and that are not entering into good faith negotiations or making significant progress in negotiations to provide adequate and effective IPR protection. Given the consistent failure of Ukraine to comply with the IPR standards, the USTR is considering whether to initiate an investigation under section 301 of the Trade Act of 1974 based on the grounds identified in this report as the basis for Ukraine's designation as a PFC.

Developments in Intellectual Property Rights Protection and Enforcement
The report discussed various positive developments from the US' trading partners in improving their IPR regimes: Bahamas, Brunei Darussalam, Canada, China, Israel, Lao People's Democratic Republic, Panama, Philippines, Russia, Taiwan and Turkey. The report further discussed various initiatives to strengthen IPR protection and enforcement which includes: the TPP Agreement, TTIP Agreement, the WTO, Bilateral and regional initiatives, Anti-Counterfeiting Trade Agreement (ACTA), Trade Preferences Program Reviews, expanded international Cooperation.

2013 301 report specifically reflected on the need to protect trade secrets. As companies in a wide variety of industry sectors like information and communication technologies, services, biopharmaceuticals, manufacturing and environmental technologies rely on the ability to protect their trade secrets and other proprietary information. Violation of trade secrets or other form of economic espionage results in significant costs to US companies and threatens the economic security of the US. The US is particularly concerned with the trade secret thefts in China. As remedies under Chinese law are difficult to obtain. The US National Counterintelligence Executive has stated that "Chinese actors are the world's most active and persistent perpetrators of economic espionage." Public reports, such as a recent study by the independent information security firm Mandiant have further indicated that actors affiliated with the Chinese military and Chinese Government have systematically infiltrated the computer systems of over 100 US companies and stolen hundreds of terabytes of data, including all forms of trade secrets, such as proprietary technology, manufacturing processes, and confidential business information. The US urged its trading partners to ensure that they have a robust system for protecting trade secrets, including deterring penalties for criminal trade secret theft.

Further the US urges its trading partners to avoid trade distortive policies which are designed to promote "indigenous innovation" by foreign US companies to hand over valuable commercial information.

Best Practices for trading partners

i. Work with the US to develop a mutually agreed upon action plans to advance IPR protection and enforcement
ii. Transparency in developing laws or regulatory changes and procedures as well as meaningful engagement with the stakeholders so that they can comply with the said laws.
iii. Cooperation among different government agencies.
iv. Providing a forum to participate in innovative mechanisms that enable government and private sector rights holder to voluntarily donate or license IPR on mutually-agreed terms and conditions.
v. Active participation of the government officials in capacity building efforts and in training.

Trends in Trademark Counterfeiting and Copyright Piracy

i. Sustained growth in the piracy of copyrighted products in virtually all formats, as well as counterfeiting of trademarked goods. Involvement of criminal enterprise continue to rise, as piracy and counterfeiting offer enormous profits and little risk. Such enterprises requires little up-front capital investment, and even when caught the penalties are low in many countries.
ii. Continued growth in online sale of pirated and counterfeit hard goods that will surpass the number sold legitimately. Online advertisements for the sale of illicit physical goods that are delivered through express mail shipments or by small consignments are found in many places.
iii. Continued increase in the use of legitimate courier services to deliver infringing goods, making it more difficult for enforcement officials to detect these goods.
iv. An increase in the practice of shipping counterfeit products separately from labels and packageing to escape enforcement efforts.
v. The emergence of Media Box piracy, whereby "boxes" often with capability to pay high definition content are loaded with large quantities of pirated works.

Piracy over the Internet and Digital Piracy

i. The US urges its trading partners to implement WIPO Internet Treaties providing for necessary tools to protect copyrighted works in the digital environment.
ii. The US will seek to work with the following trading partners to strengthen legal regimes and enforcement: Argentina,

Belarus, Brazil, Chile, China, Colombia, India, Indonesia, Italy, Mexico, Philippines, Romania, Russia, Spain, Switzerland, Taiwan, Thailand, Turkey, Ukraine, Venezuela, and Vietnam.

iii. The US urged Switzerland over the point that it is hard to get legal redress over copyright piracy online.

iv. The US urged trading partners to adopt measures to stop unauthorized camcording of motion pictures in theatres.

v. The US urged China, India, Paraguay, and Vietnam to pass effective legislation to counter the problem of illegal optical disc production.

Trademarks and Domain Name Disputes

The US urged its trading partners to provide for procedures that allow the protection of trademarks used in domain names, and to ensure that dispute resolution procedures are available to effectively enforce against the misuse of trademarks.

Government use of software

The US urged its trading partners to adopt and implement effective and transparent procedures to ensure legitimate governmental use of software.

Supporting Pharmaceutical and Medical Device innovation through Improved Market Access

The US noted that India maintains the highest tariffs on medicines, inputs to medicines and medical devices among the WTO members identified in the report. Such tariffs, combined with burdensome internal charges and regulatory challenges facing pharmaceuticals and medical devices, can hinder the Indian government's efforts to promote increased access to healthcare products.

The US urged its trading members to provide appropriate mechanism for transparency, procedural and due process protections, and opportunities for public engagement in the context of their relevant health care systems.

Further, the US industry has expressed concerns regarding the policies of several developed trading partners including: Finland, Germany, Hungary, Italy, Korea, New Zealand, Poland, Portugal, Romania, Spain, Turkey and Taiwan on issues related to innovation in the pharmaceutical sector and other aspects of good health care goods and services.

Source: *2013 Special 301 Report by the USTR*

(e) International Sanctions and boycott

(d) International boycott

On 27 November 2013, the Treasury published in the Federal Register the current list of countries requiring cooperation with an international boycott in accordance with section 999(a)(3) of the Internal Revenue Code of 1986.[68] According to the Treasury, the following countries require or may require participation in or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986): Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, United Arab Emirates, and Yemen.

(e) President continues Iran emergency for an additional year

On 13 November 2013, the Federal Register published: *Presidential Notice of November 12, 2013-Contiuation of the National Emergency with Respect to Iran.*[69] The notice continue the national emergency originally

[68] Baker &McKenzie, International Trade Compliance, ' Treasury issues and current boycott list' (October 2013) http://www.bakermckenzie.com/files/Publication/f1cff284-482e-4905-b70e-75afc2312759/Presentation/PublicationAttachment/6dfdd24c-72ed-4139-96f0-7c03cd98322e/NL_NA_InternationalTradeComplianceUpdate_Oct13.pdf (last visited on Mar. 19, 2014).

[69] Baker &McKenzie, International Trade Compliance, 'President continues Iran emergency for additional year' (December 2013)

declared in Executive Order 12170 of 14 November 1979 for an additional year because US' relations with Iran have not yet turned to normal, and the process of implementing the agreements with Iran, dated 19 January 1981 is still underway.

(f) President continues National Emergency with respect to Congo

On 25 October 2013, the Federal Register published Notice of October 23 2013- *Continuation of the National Emergency with respect to the situation in or in relation to the democratic republic of Congo.*[70]The notice continues for one year the National Emergency first declared on 27 October 2006, by Executive Order 13413, pursuant to the International Emergency Economic Powers Act (50 U.S.C 1701-1706), which ordered related measures blocking the property of certain persons contributing to the conflict in that country. The President took this action to deal with the unusual and extraordinary threat to foreign policy of the US constituted by the situation in or in relation to the Democratic Republic of Congo, which has been marked by widespread violence and atrocities that continue to threaten regional stability.

(g) P5+1 enters into Compromise with Iran

On 24 November 2013, the US, UK, Germany, France, Russia and China (P5+1) [5 UN Security Council members and Germany] reached a deal with Iran that would decelerate Iran's nuclear development program in exchange for some relief of the economic sanctions P5+1 countries have imposed against Iran.[71] Following the negotiations in Geneva, Iran has agreed to pause any uranium enrichment above 5% and neutralize any of its stockpiles that are near 20%, beyond which level approaches bomb-grade fuel. In return, the US will provide Iran approximately $7 billion in relief, an amount the Obama Administration deems a 'fraction' compared to Iran's $100 billion in foreign exchange holdings which Iran has no access to due to the current sanctions.

The P5+1 has made commitment with Iran as to:

1) Purchase of Iranian Oil to remain at significantly reduced current levels, whereby Iran can access up to $4.2 billion in sales, although Obama Administration expects that around $15 billion of its revenues during the six-month period will go into restricted overseas account. Such a commitment applies to the six countries currently importing Iranian crude oil and will not be open for sales in other countries.
2) The P5+1 agreed to suspend secondary sanctions on the provision of insurance/reinsurance services for Iranian oil tankers for the shipment of oil as permitted in the deal.
3) Suspension of certain secondary sanctions on gold and precious metals, Iran's automotive sector, and Iran's petrochemical exports, potentially providing Iran up to $1.5 billion in revenue. Such purchases by Iran of gold and precious metals may not be made using oil revenues restrained in accounts overseas.
4) No new imposition of nuclear-related sanctions to the extent possible

---

http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_InternationalTradeComplianceUpdate_Dec13.pdf (last visited on Mar. 19, 2014).

[70] Baker &McKenzie, 'President continues Emergency with respect to DRC' (November 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_InternationalTradeComplianceUpdate_Nov13.pdf (last visited on Mar. 19, 2014).

[71] White & Case LLP General Trade Report- JETRO, 'P5+1 Reaches Compromise with Iran in Exchange for Sanctions Relief', http://www.jetro.go.jp/theme/wto-fta/news/pdf/w_c_monthly_report-201311.pdf (last visited Mar. 17, 2014).

5) Allowance of international transfers of up to $400 million in governmental tuition assistance from restricted Iranian funds to recognized educational institutions in third countries
6) The P5+1 agreed to license exports for certain safety-related repairs and inspections inside Iran for certain Iranian airlines, including Iran Air.
7) Facilitation of humanitarian transactions, which are provided for under existing laws but are currently difficult to process due to perceived sanctions restrictions.

Iran will have to take the promised actions before the funds are released in the above-related manner. A majority of current economic-related sanctions architecture remains in place where sanctions on shipping and shipbuilding, technical services to Iran's energy sector and petroleum product exports to Iran also remain. Other finance-related sanctions against the Central Bank of Iran and the like remains under the *Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA), essentially maintaining a blockade against Iranian access to the US financial system*.

The US law enforcement agencies have warned of serious consequences against the violation of US sanctions and export control laws. On 26 November 2013, the US DOC's Bureau of Industry and Security (BIS) announced that Houston-based Weatherford International has agreed to pay $50 million in civil penalties following the allegation of it exporting oil and gas related equipment to Iran in violation so that Export Administration Regulations (EAR) and the Iranian Transactions and Sanctions Regulations. The Obama Administration has urged Congress to not take further actions, yet there is a consideration to impose new round of Congress-driven sanctions after the temporary period of 6 months is finished.

IV.C.2 Business framework and business incentive programs

(a) DOC increases US Manufacturing Council Membership to US Subsidiaries of foreign companies

On 1 November 2013, the DOC announced for an expanded eligibility rules to allow participation of US subsidiaries of foreign companies in the US Manufacturing Council.[72] The DOC has updated the Council's charter which now mandates a membership representing a balanced cross-section of the US manufacturing industry according to sector, geographic location, demographics and company size. President George W. Bush established the Manufacturing Council on 7 April 2004 after a recommendation by the DOC to focus on manufacturing competitiveness of the US companies. Private sector members advise the council and make recommendations to help US manufacturers maintain global competitiveness. Addition of representatives from foreign companies will add perspectives to the Council policies and retain foreign direct investment in the US manufacturing sector. A DOC and President's Council of Economic Advisors joint report released on 31 October 2013, found that foreign direct investment comprised 9.6% of US private investment and employed 5.6 million US workers in 2011.

V. TRADE POLICIES BY SECTOR

V.A Agriculture

V.A.1 US-Japan accept one another's 'organic' claim

[72] White & Case LLP General Trade Report- JETRO (November 2013), 'DOC Expands US Manufacturing Council Membership to US Subsidiaries of Foreign Companies', http://www.jetro.go.jp/theme/wto-fta/news/pdf/w_c_monthly_report-201311.pdf

On 26 September 2013, the US embassy in Japan issued a press release providing that beginning on 1 January 2014 organic products certified in Japan or in the US may be sold as organic in either country.[73]

V.A.2 US-EU sign agreement to ensure high-quality US beef to the EU

On 21 October 2013, the US and EU signed a two-year extension of an agreement which provide the US beef producers with significant access, at zero-duty, to the EU market for high-quality beef produced from non-hormone-treated cattle.[74]

[73] Baker &McKenzie, 'US-Japan agree to accept each other's certified "Organic" claims' (November 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_InternationalTradeComplianceUpdate_Nov13.pdf (last visited on Mar. 19, 2014).

[74] Baker &McKenzie, 'US signs agreement ensuring continued access of high-quality US beef to the European Union', (November 2013) http://www.bakermckenzie.com/files/Uploads/Documents/Global%20Trade%20Commerce/NL_InternationalTradeComplianceUpdate_Nov13.pdf (last visited on Mar. 19, 2013).

VI. ANNEXES

ANNEX A: WTO DISPUTE UPDATE

Dispute	Update
US as a Complainant	
China – Anti-Dumping and Countervailing Duty Measures on Broiler Products from the US *DS427*	Dispute concerns with certain anti-dumping and countervailing duties on broiler products from the US. On 23 October 2013, China informed the DSB that it intended to implement the DSB recommendations and rulings in a manners that respects its WTO obligations and would need a reasonable period of time to accomplish the same. On 19 December 2013, China and the US informed the DSB that they had agreed that the reasonable period of time for China to implement the DSB recommendations and rulings shall be 9 months., 14 days from the date of adoption of the panel report (25 September 2013). Reasonable period of time expires on 9 July 2014.
US as a Respondent	
US- Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China *DS471*	On 3 December 2013, China requested consultations with the US concerning the use of certain methodologies in anti-dumping investigations involving Chinese products. China claims violation of the Anti-Dumping Agreement and GATT 1994. On 19 December 2013, Japan requested to join the consultations. On 25 December 2013, Russia requested to join the consultations. On 8 January 2014, Ukraine requested to join the consultations. On 13 February 2014, the DSB deferred the establishment of a panel.
US- Anti-Dumping and Countervailing Measures on large residential washers from Korea *DS464*	The dispute concerns with Korea's compliant against the US concerning anti-dumping and countervailing measures relating to large residential washers from Korea. On 18 December 2013, the DSB deferred the establishment of a panel.
US- Countervailing and Ant-Dumping Measures on Certain Products from China *DS449*	The dispute concerns China's compliant against the US regarding: i. A law which explicitly allows for the application of countervailing measures to non-market economy countries. ii. Countervailing duty determinations or actions made or performed by US authorities between 20 November 2006 and 13 March 2012 in respect of Chinese products. iii. Anti-dumping measures associated with the concerned countervailing duty measures as well as the combined effect of these anti-dumping measures and the parallel countervailing duty measures; and iv. The US' failure to provide the US DOC with legal authority to identify and avoid the double remedies in respect of investigations or reviews initiated on or between 20 November 2006 and 13 March 2012. The Panel expected to complete its report by December 2013, but the report is not yet out.
US- Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products *DS381*	The dispute concerns complaint by Mexico against the US regarding: i. The US Code, Title 16, Section 1385 ("Dolphin Protection Consumer Protection Act") ii. Dolphin-safe labelling standards iii. Ruling in Earth Island Institute v. Hogarth, 494 F. 3d 757 (9th Circuit. 2007).

	On 14 November 2013, Mexico requested the establishment of a compliance panel. The DSB on 25 November 2013 deferred the establishment of a panel.
US as a third party	
European Union – Measures on Atlanto-Scandian Herring *DS469*	On 4 November 2013, Denmark, in respect of the Faroe Islands, complained against the EU concerning the use of coercive economic measures in relation to Atlanto-Scandian herring and Northeast Atlantic mackerel. Denmark challenged the measure under GATT 1994.
Russian Federation – Recycling Fee on Motor Vehicles *DS462*	The dispute concerns with the EU's compliant against Russia concerning the 'recycling fee' imposed on motor vehicles. On 11 October 2013, the EU requested the establishment of a panel. At its meeting on 22 October 2013, the DSB deferred the establishment of a panel. The DSB on 25 November 2013, established a panel. China, India, Japan, Korea, Norway, Turkey, Ukraine and the US reserved their third party rights. Subsequently, Brazil reserved its third party rights.
Colombia – Measures Relating to the Importation of Textiles, Apparel and Footwear *DS461*	The dispute concerns with Panama's complaint against Colombia's imposition of a compound tariff affecting importation of textiles, apparel and footwear from Panama. On 20 December 2013, Panama requested the Director-General to compose the panel.
Argentina – Measures Relating to Trade in Goods and Services *DS453*	The dispute concerns with Argentina's imposition of certain measures affecting trade in goods and services. Specific countries are listed in the Regulation to the Income/Profit Tax Law, Decree 1344/98, as amended by Decree 1037/00. On 30 October 2013, Panama requested the Director-General to compose a panel. On 11 November 2013, the Director General composed a panel.
Argentina – Measures Affecting the Importation of Goods *DS445* *DS444* *DS438*	The dispute concerns a complaint by Japan over certain measures imposed by Argentina on the importation of goods. On 15 November 2013, the Chair of panel informed the DSB that it expects to issue its final report to the parties by the end of May 2014, in accordance with the timetable adopted after consultations with the parties.
European Communities – Measures Prohibiting the Importation and Marketing of Seal Products *DS401* *DS400 (Complainant: Canada)*	The dispute concerns with the complaint by Norway over the EC's seal regime which prohibits the importation and sale of processed and unprocessed seal products, while containing certain exceptions that afford privileged access to the EU market to seal products originating in the EC and certain third countries, but not Norway. On 25 November 2013, the panel report was circulated to Members. The Panel held that the EC seal regime is a technical regulation and the IC and MRM exception violates Article 2.1 of the TBT. The Panel held that the EC Seal Regime does not violate Article 2.2 of the TBT Agreement. The Panel further held that the EC seal regime violates Article I: 1 of the GATT 1994. With respect to the MRM exception, the Panel found that it violates Article III: 4 of GATT 1994. The Panel further stated that the IC and MRM exceptions are not justified under Article XX (a) because they fail to meet the requirements of the chapeau under Article XX GATT. Further, the Panel held that the EU failed to make a prima facie case that the EU Seal Regime is justified under Article XX (b) of the GATT 1994. Further the Panel held that the EU has acted inconsistently with its obligations under Article 5.1.2 of the TBT Agreement, and that the complainants did not demonstrate the violation of Article 5.2.1 of the TBT Agreement. The Panel rejected the claims under Article XI: 1 of GATT 1994 and in light of the above findings did not consider it necessary to rule on the non-violations claims under Article XXIII: 1(b) of the GATT 1994.

Source: *WTO Official Website*

ANNEX B: ANTIDUMPING AND COUNTERVAILING MEASURES

Administrative Reviews

Active investigations: Commission import-injury investigations pending a Commission determination

Preliminary phase determinations

Investigation	Country	Product	Status of proceedings	Important dates
701-TA-510 and 731-TA-1245 (Preliminary)	China	Calcium Hypochlorite	Pending determination	Determination due on 3 February 2014 and views to Commerce on 10 February 2014.
701-TA-511 and 731-TA-1246-1247 (Preliminary)	China and Taiwan	Certain Crystalline Silicon Photovoltaic Products	Pending determination	Determination due on 14 February 2014 and views to Commerce on 24 February 2014.
701-TA-509 and 731-TA-1244 (Preliminary)	China	Tetrafluoroethane	Pending determination	Determination due on 6 December 2013 and views to Commerce 13 December 2013.
701-TA-512 and 731-TA-1248 (Preliminary)	China	Carbon and Certain Alloy Steel Wire Rod	Pending determination	Determination on 17 February 2014 and views to Commerce on 24 March 2014.

Final phase determination

Investigation	Country	Product	Status of proceedings	Important dates
731-TA-1206	Japan	Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel	Pending decisions	Start of investigation: 19 November 2013 End of investigation: 16 May 2014
731-TA-1207-1209	China, Mexico and Thailand	Prestressed Concrete Steel Rail Tie Wire	Pending determination	Start of investigations: 12 December 2013 End of investigations: 12 June 2014
731-TA-1205	China	Silica Bricks and Shapes	Pending determination	Start of investigation: 20 June 2013 End of investigations: 9 January 2014
701-TA-498 and 731-TA-1213-1214	India and Thailand	Steel Threaded Rod	Pending determination	Start of investigation: 31 December 2013 End of investigations 1 June 2014 (Thailand) and 12 June 2014 (India)

Changed circumstances investigation

None

Sunset Reviews

Initial reviews

Investigation	Country	Product	Status of proceedings	Important dates
701-TA-450 and 731-TA-1122	China	Laminated Woven Sacks	Initial review (expedited) pending determination	Start of investigation: 1 July 2013 End of investigation: 11 March 2014
701-TA-449 and 731-TA-1118-1121	China, Korea, Mexico and Turkey	Light-Walled Rectangular Pipe and Tube	Initial Review (full) pending determination	Start of investigation: 1 April 2013 End of investigation: 6 June 2014
701-TA-448 and 731-TA-1117	China	Certain Off-the Road Tires	Initial review (Expedited) pending determination	Start of investigation 1 August 2013 End of investigations: 15 January 2014
701-TA-452 731-ta-1129-1130	China and Taiwan	Raw Flexible Magnets	Initial review (Expedited) pending determination	Start of investigation: 1 August 2013 End of investigations 15 January 2014
701-TA-453 and 731-TA-1136-1137	China and Germany	Sodium Nitrate	Initial review (Expedited)	Start of investigation: 1 July 2013 Determination: 29 January 2014
731-TA-1114	China	Steel Nails	Initial review (Expedited) pending determination	Start of investigation: 1 July 2013 Determination: 19 December 2013
731-TA-1123	Steel Wire Garment Hangers	China	Initial review (expedited) pending determination	Start of investigation: 3 September 2013 Determination: 18 February 2014

Second reviews

Investigation	Country	Product	Status of proceedings	Important dates
701-TA-405, 406 and 408 & 731-TA-899-901 and 906-908	China, India, Indonesia, Taiwan, Thailand and Ukraine	Hot-Rolled Steel Products	Sunset review (Full) pending determination	Start of investigation: 1 November 2012 Determination 15 January 2014
731-TA-990	China	Non-Malleable Cast Iron Pipe Fittings	Sunset review (Expedited) pending determination	Start of investigation: 1 July 2013 Determination: 29 January 2014
731-TA-991	Russia	Silicon Metal	Second review (Full)	Start of investigations: 3 June

				2013 Determination: 11 June 2014
701-TA-417 and 731-TA-953-959 and 962	Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago and Ukraine	Carbon and Certain Alloy Steel Wire Rod	Second review (Full)	Start of investigation: 3 June 2013 Determination: 16 June 2014

Third reviews

Investigations	Country	Product	Status of proceedings	Important dates
731-TA-749	China	Persulfates	Third Review (Full) pending determination	Start date: 1 March 2013 Determination: 10 March 2014

COMPLETED

Preliminary phase investigations

Investigations	Country	Product	Status of proceedings	Important dates
701-TA-510 and 731-TA-1245 (Preliminary)	China	Calcium Hypochlorite	Preliminary phase	Start date: 18 December 2013 Date of determination: 3 February 2014 End date: 10 February 2014

Source: *US International Trade Commission Official Website*

ANNEX C: TBT NOTIFICATIONS

Notification	Product	Measure	Agency	Objective
G/TBT/N/USA/875	Consumer antiseptics. Products of the chemical industry (ICS 71.100)	A rule to amend the 1994 proposed rule (the 1994 TFM) for over-the-counter (OTC) antiseptic drug products. The rule establishes conditions under which OTC consumer antiseptic products intended for use with water (referred to throughout as consumer antiseptic washes) are generally recognized as safe and effective. The rule requires additional safety data as a necessary requirement to support the safety of antiseptic wash active ingredients. All the consumer antiseptic wash active ingredients requires to have the data which demonstrates a clinical benefit from the use of these consumer antiseptic wash products compared to non-antibacterial soap and water.	Food and Drug Administration (FDA), Health and Human Services (HHS) [892]	Prevention of deceptive practices and consumer protection; Protection of human health or Safety.
G/TBT/N/USA/874	Energy Efficiency Program for Consumer Products: Energy Conservation Standards for General Service Lamps.	Proposed rulemaking and data collection process to consider new and amended energy conservation standards for products included in the definition of general service lamps. The agency prepared a Framework Document which details the analytical approach and preliminary scope of coverage for the rulemaking and identifies several issues on which DOE is particularly interested in receiving comments. The agency will consult the public and seek comments to address the rulemaking process.	Office of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE)	Protection of the environment.
G/TBT/N/USA/872	Fuels (ICS: 75.160)	The agency proposes annual	National Highway	Prevention of

		percentage standards under s. 211(o) of the Clean Air Act, the Environmental Protection Agency, for cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuels that would apply to all motor vehicle gasoline and diesel produced or imported in the year 2014.	Traffic Safety Administration (NHTSA), Department of Transportation (DOT) [889]	deceptive practices and consumer protection.
G/TBT/N/USA/873	Commercial and industrial electric motors; Motors of an output not exceeding 37.5 W (HS: 850110); Environmental Protection (ICS 13.020); Rotating machinery (ICS 29.160).	The agency proposes energy conservation standards for a number of different groups of electric motors that the proposed standards would maintain the current energy conservation standards for some electric motor types and amend the energy conservation standards for other electric motor types.	Office of Energy Efficiency and Renewable Energy (OOERE), Department of Energy (DOE) [890].	Protection of the environment.
G/TBT/N/USA/871	Environmental protection (ICS 13.020), Domestic electrical appliances in general (ICS 97.030)	The agency proposes these rules to establish procedures to govern the enforcement and amendment of standards found in ORS 469.229 through 469.261, which establish minimum energy standards for equipment and appliances for sale or use in Oregon that are not federally regulated.	State of Oregon, Department of Energy [888].	Prevention of deceptive practices and consumer protection; Protection of the environment.
G/TBT/N/USA/870	Anthropomorphic Test Devices; motor cars and other motor vehicles principally designed for the transport of persons (other than those heading 87.02), including station wagons and racing cars. HS 8703); Road vehicles in general (ICS 43.020); Diagnostic, maintenance and test equipment (ICS 43.180).	The agency proposes to amend regulations in order to add specifications and qualification requirements for an anthropomorphic test device (ATD) representing a 3 year old child, called the "Q3s" side impact test dummy.	National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT) [887]	Prevention of deceptive practices and consumer protection.
G/TBT/N/USA/869	Tyres; New pneumatic tyres, of rubber (HS 4011) Tyres (ICS 83.160)	Due to flooding which affects several water crossings along a portion of the test course, NHTSA is issuing the interim final rule to add an alternate tread-wear test course route to avoid the inaccessible portions of the course. This change will not compromise the reliability of the tread-wear grades, and will not impose or relax any substantive requirements or burdens on manufacturers. Although the	National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT) [886]	Prevention of deceptive practices and consumer protection.

		addition of the alternative course route is effective immediately, the agency has required submission of comments whereby interested parties can submit their comment.		
G/TBT/N/USA/864	Consumer products; Domestic safety (ICS 13.120), Products of the chemical industry (ICS 71.100)	Existing rules on reduction of emissions of volatile organic compounds (VOCs) reduction of emission has to be readopted because they are scheduled to expire on 24 September 2013. The existing VCO limits are proposed to be increased for construction, panel and floor covering adhesives and for structural waterproof adhesives, and existing VOC limits are proposed to be decreased for general purpose adhesives, carburetor or fuel injection air intake cleaners, aerosol engine degreasers, floor polishes/waxes (other than wood floor wax), aerosol general purpose cleaners, aerosol general purpose degreasers, and laundry starch/sizing/fabric finish products. The VOC limits are proposed to be added for adhesive removers, dual purpose air freshner/disinfectants (aerosol), anti-static products, automotive windshield cleaner, non-aerosol bathroom and tile cleaner, brake cleaner, disinfectant (aerosol ad non-aerosol), electrical cleaner, electronic cleaner, fabric freshners (aerosol and non-aerosol), footwear or leather care products, graffiti remover (aerosol and non-aerosol), hair-styling products, multipurpose solvent paint thinner; sanitizer (aerosol and non-aerosol), shaving gel, aerosol temporary hair color, toilet/urinal care products (aerosol and non-aerosol) and wood cleaner (aerosol and non-aerosol).	State of New Hampshire, Department of Environmental Services [882]	Protection of the environment; Prevention of deceptive practices and consumer protection.
G/TBT/N/USA/865	Commercial refrigeration equipment; Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and	The agency proposes to revise and reorganize its test procedure for commercial refrigeration equipment (CRE) in order to clarify certain terms, procedures and compliance dates. It proposes a number of test procedure clarifications which	Office of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE) [881]	Protection of environment

	humidity, including those machines in which the humidity cannot be separately regulated. (HS 8415), Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading 84.15 (HS 8418), Environmental protection (ICS 13.020), Shop fittings (ICS 97.130).	have arisen as a result of the negotiated rulemaking process for clarification of commercial heating, ventilation, air conditioning, refrigeration, and water heating equipment.		
G/TBT/N/USA/868	Residential and commercial water heaters, Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electrothermic hair dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading 85.45 (HS 8516). Environmental protection (ICS 13.020); Installations in buildings (ICS 91.140); Domestic, commercial and industrial heating appliances (ICS 97.100).	The agency proposes to revise its last procedure for residential water heaters and certain commercial water heaters established under the energy policy and conservation act. This rulemaking will fulfil DOE's statutory obligation for residential and certain water heaters to review its test procedure for covered products and equipment at least once every seven years. As such rulemaking satisfies DOEs statutory obligation to develop a uniform efficiency description for residential and commercial water heaters. The proposed test method would apply the same efficiency descriptor to all residential and certain commercial water heaters, and it would extend coverage to eliminate certain gaps in the current residential test procedure, update the simulated use test draw pattern and update the water delivery temperature requirement.	Office of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE) [884]	Protection of the environment.
G/TBT/N/USA/862	Direct heating equipment and pool heaters. Environmental protection (ICS 13.020), Domestic, commercial and industrial heating appliances (ICS 97.100).	The agency proposes to revise its test procedures for direct heating equipment and pool heaters established under the Energy Policy and Conservation Act. The rulemaking fulfils the agency's statutory responsibility to review its test procedures for covered products at least once every seven years. With regards, direct heating equipment, the proposed amendments would	Office of Energy Efficiency and Renewable Energy (OOERE), Department of Energy (DOE).	Protection of Environment.

		add provisions for testing vented home heating equipment that utilizes condensing technology and to incorporate by reference six industry test standards to replace the outdated test standards which are referred to in the set-up and test conditions for testing direct heating equipment.		
G/TBT/N/USA/863	Residential furnace fans; Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters (HS 8414); Environmental protection (ICS 13.020), Ventilators, Fans, Air-conditioners (ICS 23.120).	The agency proposed new energy conservation standards for residential furnace fans.	Office of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE).	Protection of environment.
G/TBT/N/USA/860	Environmental protection (ICS 13.020), Domestic electrical appliances in general (ICS 97.030), Dehumidifiers.	The agency proposes to revise the compliance date for the dehumidifier test procedures established under the Energy Policy Test using only the active mode provisions in the test procedure for dehumidifiers currently found in the DOE regulations to determine compliances with the existing energy conservation standards, with the following exceptions.	Office of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE) [877]	Protection of the environment.
G/TBT/N/USA/861	Environmental protection (ICS 13.020), Ventilators, Fans, Air-conditioners (ICS 23.120). Ceiling fans.	The agency seeks certain information to help inform its current rulemaking to consider setting energy conservation standards for ceiling fans. Specifically, the agency seeks information on the interaction between ceiling fan and air conditioning usage. To inform interested parties and to facilitate this process, DOE has identified several related issues in this RFI on which DOE particularly seeks to receive comment and data from stakeholders.	Office of Energy Efficiency and Renewable Energy (OEERE), Department of Energy (DOE) [878]	Protection of environment.
G/TBT/N/USA/859	Raw skins of sheep or lambs (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not with wool or on spilt, other	The agency proposes amending its rules and regulations under the Wool Products Labelling Act of 1939 ("Wool Rules" or "Rules") to: conform to the requirements of the Wool Suit Fabric Labelling Fairness and International Standards Conforming Act, which revised	Federal Trade Commission (FTC) [876]	Prevention of deceptive practices and consumer protection.

	than those excluded by Note 1 (c) to this Chapter (HS 4102); Products of the textile industry (ICS 59.080), Clothes (ICS 61.020); Wool products.	the labelling requirements for cashmere and certain other wool products; and align with the proposed amended rules and regulations under the Textile Fiber Products Identification Act (Textile Rules).		

Source: *WTO Documents Online*

ANNEX D: SPS NOTIFICATIONS

Notification	Product	Measure	Agency	Objective	Target countries
G/SPS/N/USA/2591	Potato; Potato, wet peel.	This regulation establishes tolerances for residues of sedaxane in or on potato and potato, wet peel.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2590	Multiple products	This regulation establishes tolerances for residues of methoxyfenozide in or in multiple commodities. Additionally, this regulation removes several established time-limited and permanent tolerances.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2589	Canola, seed	This regulation amends the established tolerance for residues of the herbicide glyphosate in or on canola.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2592	Multiple products	EPA is removing listings in the Code of Federal Regulations (CFR) for already expired tolerances for methyl parathion.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2593	Animal feed and pet food	The agency is proposing regulations for domestic and foreign facilities which are required to register under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to establish requirements for current good manufacturing practice in manufacturing, processing, packing, and holding of animal food. FDA also is proposing regulations to require that certain facilities	US Department of Health and Human Services, Food and Drug Administration	Food safety and animal health.	All trading partners

		establish and implement hazard analysis and risk-based preventive controls for food for animals. FDA is taking this action to provide greater assurance that animal food is safe and will not cause illness or injury to animals or humans and is intended to build an animal food safety system for the future that makes modern, science and risk-based preventive controls the norm across all sectors of the animal food system.			
G/SPS/N/USA/2595	Multiple products.	This regulation establishes tolerances for residues of fomesafen in or on multiple commodities.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2594	Animal feed and pet food	The agency announced the availability of and requesting comment on a document entitled Draft Qualitative Risk Assessment of Risk of Activity/Animal Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm (the draft RA). The purpose of the draft RA is to provide a science based risk analysis of those activity/animal food combinations that would be considered low risk. FDA conducted this RA to satisfy requirements of the FDA Food Safety Modernization Act (FSMA) to conduct a science-based risk analysis and to consider the results of that analysis in rulemaking that is required by FSMA.	US Department of Health and Human Services, Food and Drug Administration	Food safety and animal health	All trading partners
G/SPS/N/USA/2596	Spirotetramat; Pesticide Tolerances	This regulation establishes tolerances for residues of spirotetramat in or on corn, sweet, kernel plus cob with	US Environmental Protection Agency	Food safety	All trading partners

		husks removed and persimmon and revises established tolerances in or on feijoa, papaya and Spanish lime.			
G/SPS/N/USA/2597	Multiple products	This regulation establishes tolerances for residues of imazapyr in or on lentil.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2598	Plants	The agency advises public that we have been and are assessing certain plant pests that are present in the US to determine whether we should take action to mitigate the risk posed by those pests when they found in consignments of imported goods at ports of entry into the US. We have determined that it is no longer appropriate or necessary to take such action on some plant pests on which we had been taking action at ports of entry because we are not taking any regulatory action on those same pests when we find them in interstate movement, due to our scientific determination that we do not need to mitigate their pest risk. This process relieves restrictions that are no longer needed and ensures that actions taken on plant pests found in imported goods are consistent with the actions we taken on those same pests when appear in interstate commerce.	The Animal and Plant Health Inspection Service (APHIS)	Plant protection	All trading partners
G/SPS/N/USA/2599	Barley, grain; Vegetable, cucurbit, group 9; Vegetable, fruiting, group 8-10.	This regulation establishes tolerances for residues of tebuconazole in or on the fruiting vegetable group 8-10 and amends the existing tolerances for barley grain and cucurbit vegetable group 9.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2601	Artichoke, globe; Berry, low growing, subgroup 13-07G, except	This regulation establishes tolerances for residues of boscalid in or	US Environmental Protection Agency	Food Safety	All trading partners.

	cranberry; Bushberry subgroup 13-07B; Caneberry subgroup 13-07A; Endive, Belgium; Fruit, citrus, group 10-10; Fruit, pome, group 11-10; Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13-07F	on multiple commodities.			
G/SPS/N/USA/2600	Berry, low growing, except starberry, subgroup 13-07H; Bushberry, subgroup 13-07B; Vegetable, cucurbit, crop group 9.	This regulation establishes tolerances for residues of prothioconzole in or on bushberries (crop subgroup 13-07B); low growing berries, except strawberry (crop subgroup 13-07H); and cucurbit vegetables (crop group 9).	US Environmental Protection Agency	Food safety	All trading partners.
G/SPS/N/USA/2602	Barley, grain; Barley, hay; Barley, straw; Berry, low growing, subgroup 13-07G; Bushberry subgroup 13-07B; Fruit, citrus, group 10-10; Fruit, pome, group 11-10; Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13-07F; and Vegetable, fruiting, group 8-10.	This regulation establishes tolerances for residues of fenpropathrin in or on multiple commodities.	US Environmental Protection Agency	Food safety	All trading partners.
G/SPS/N/USA/2605	Rapeseed, subgroup 20A	This regulation establishes tolerances for residues of quinclorac in or on rapeseed, subgroup 20A.	US Environmental Protection Agency	Food safety	All trading partners.
G/SPS/N/USA/2604	Metaldehyde; Pesticide Tolerances	This regulation establishes tolerances for residues of metaldehyde in or on multiple commodities. This regulation additionally removes the established tolerances in or on berry group 13 and strawberry.	US Environmental Protection Agency	Food safety	All trading partners.
G/SPS/N/USA/2603	Multiple products	This regulation establishes tolerances for residues of etofenprox in or multiple commodities.	US Environmental Protection Agency	Food safety	All trading partners.
G/SPS/N/USA/2609	Apple and grape	This regulation establishes an exemption from the requirement of a tolerance for residues of the biochemical pesticide prohydrojasmon (PDJ)	US Environmental Protection Agency	Food safety	All trading partners

		when used as a plant growth regulator in or on apple and grape pre-harvest.			
G/SPS/N/USA/2608	Multiple products	This regulation establishes tolerances for residues of flonicamid in or on multiple commodities.	US Environmental Protection Agency	Food safety	All trading partners
G/SPS/N/USA/2607	Coffee, green, bean; Coffee, instant	This regulation established tolerances for residues of flutriafol in or on coffee, bean, green and coffee, instant.	US Environmental Protection Agency	Food safety	All trading partners.
G/SPS/N/USA/2606	Animal and animal products	The agency is advising the public of the US' concurrence with the World Organization for Animal Health's (OIE) bovine spongiform encephalopathy (BSE) risk designations for 14 regions. The OIE recognizes these regions as being of either negligible risk for BSE or of controlled risk for BSE.	The Animal and Plant Health Inspection Service (APHIS)	Food safety	All trading partners; World Organization for Animal Health (OIE) (eg. Terrestrial or Aquatic Animal Health Code, chapter number)

Source: *WTO Documents Online*