TRADE POLICY DEVELOPMENTS PAPER NO. 10

REPORT ON THE UNITED STATES

(for the period July - September 2011)

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Abbreviations

AACF	-	African Agricultural Capital Fund
AAPA	-	American Association of Port Authorities
ACTA	-	Anti-Counterfeiting Trade Agreement
AD	-	Anti-Dumping
AGOA	-	African Growth and Opportunity Act
AID	-	U.S. Agency for International Development
AIDCP	-	Agreement on the International Dolphin Conservation Program
APEC	-	Asia Pacific Economic Cooperation
ATPA	-	Andean Trade Preference Act
AusAID	-	Australian Agency for International Development
AWSB	-	Athi Water Services Board
BIT	-	Bilateral Investment Treaty
CAFTA-DR	-	Dominican Republic-Central America-United States Free Trade Agreement
CBP	-	Customs and Border Protection
CCC	-	Commodity Credit Corporation
CEL	-	Comisión Ejecutiva Hidroeléctrica del Río Lempa
COMESA	-	Common Market for Eastern and Southern Africa
CRS	-	Congressional Research Service
CTAC	-	Commercial Targeting and Analysis Center
CVD	-	Countervailing Duties
DEIP	-	Dairy Export Incentive Program
DSB	-	Dispute Settlement Board
EAE	-	Energy Allied Egypt
EEP	-	Export Enhancement Program
EIU	-	Economist Intelligence Unit
EPA	-	Environmental Protection Agency
EU	-	European Union
Ex-Im Bank	-	Export-Import Bank of the United States
FDA	-	Food and Drug Administration
FFDCA	-	Federal Food, Drug and Cosmetic Act
FGP	-	Facilities Guarantee Program
FMDP	-	Foreign Market Development Program
FTA	-	Free Trade Agreement
FY	-	fiscal year

GACL	-	Ghana Airports Company Limited
GATT	-	General Agreement on Tariffs and Trade
GDP	-	Gross Domestic Product
GhIPPS	-	Ghana Interbank Payments and Settlement Systems Limited
GOT	-	Government
GSP	-	Generalized System of Preferences
HTS	-	U.S. Harmonized Tariff Schedule
ICT	-	Information and Communications Technology
IMF	-	International Monetary Fund
IP	-	Intellectual Property
ITA	-	International Trade Administration
MAP	-	Market Access Program
MFN	-	Most Favoured Nation
MOI	-	Memorandum of Intent
MSF	-	Médecins Sans Frontières
NAFTA	-	North American Free Trade Agreement
NAS	-	National Academy of Sciences
OECD	-	Organization for Economic Cooperation and Development
OPIC	-	Overseas Private Investment Corporation
OTDS	-	Overall Trade-Distorting Support
PCE	-	Personal Consumption Expenditures
PHMSA	-	Pipeline and Hazardous Materials Safety Administration
PMAs	-	Premarket Approval Applications
PSE	-	Producer Support Estimate
PT KAI	-	PT Kereta Api Indonesia
REAP	-	Rural Energy for America Program
RFS	-	Renewable Fuel Standard
ROZ	-	Reconstruction Opportunity Zones
SAB	-	Science Advisory Board
SIDO	-	State International Development Organization
SMEs	-	Small and Medium-Sized Enterprises
SPS	-	Sanitary and Phytosanitary Measures
STEP	-	State Trade and Export Promotion Program
SWFs	-	Sovereign Wealth Funds
TAA	-	Trade Adjustment Assistance
TBT	-	Technical Barriers to Trade
TEAM	-	Trade Enhancing Access to Medicines

TIFA	-	Trade and Investment Framework Agreement
TPF	-	Trade Policy Forum
TPP	-	Trans-Pacific Partnership
TRIPS	-	Agreement on Trade Related Aspects of Intellectual Property Rights
TRQ	-	Tariff-Rate Quota
US	-	United States
USAID	-	U.S. Agency for International Development
USDA	-	U.S. Department of Agriculture
USDOC	-	U.S. Department of Commerce
USITC	-	United States International Trade Commission
USTDA	-	U.S. Trade and Development Agency
USTR	-	United States Trade Representative
WIPO	-	World Intellectual Property Organization
WTO	-	World Trade Organization

Executive Summary

- The first part of the report highlights the recent developments in the economic situation of the US, including GDP growth and investment. *Standard and Poor's*, the credit rating agency, downgraded the sovereign credit rating of the US government from AAA to AA.
- Some key legislations were introduced in the U.S Congress such as the American Jobs Act, Trade Adjustment Assistance program and extension of the GSP scheme. Of these legislations, the extension of the GSP program is of special relevance for India, as certain key industries including gems and jewellery, apparel and textile items traditionally benefit from the GSP programmes.
- US trade agreements with Columbia, Panama and South Korea, have been submitted to the U.S. Congress for approval.
- Several meetings were held between U.S. and Russia in connection with Russia's accession to the WTO which seems imminent now.
- The Anti-counterfeit Trade Agreement was finalised.
- The report dedicates a special mention to the US-China trade policy developments as US is introducing a legislation to counter China's devaluation and participating in trade talks with allied countries to keep a check on China's rare earths export restriction.
- The report highlights the conclusion of the US-Rwanda BIT which is the first BIT concluded by the US an African country in nearly a decade.
- The WTO DSB released two panel reports pertaining to the TBT agreement. The disputes include the longstanding tuna dispute and the U.S. ban on clove cigarettes.
- Sunset reviews proceedings were conducted against India on September 14, 2011, in terms of which the AD and CVD duties on Sulfanic acid from India would continue.
- The report highlights the details of the WTO decision dated June 17, 2011 where the Panel gave a verdict on the issue of zeroing. The issue had been contentious for a long time and this decision makes the acts of zeroing WTO inconsistent.
- The report deals with the progress of subsidy programs in the US including the farm subsidy, ethanol subsidy and specific export promotion funds given to specific sectors in the US.
- The TRQ for Sugar was increased by the U.S Department of Agriculture with effect from August 2, 2011.
- The report highlights the awards granted by USDA for providing assistance and training to beginning farmers and ranchers to help them run successful and sustainable farms.
- The report also focuses on the Government support to various renewable energy programs including the focus on bio-fuels coupled with the support granted to rural Americans.

ISSUES for the next report

The key developments during the review quarter have been highlighted in the executive summary. The key agenda for the next report which follow up the developments covered in the current report and track the progress of certain speculated policy measures have been highlighted as below:

- The Currency Bill that seeks to impose CVD action against countries having misaligned currency, a measure primarily targeted at China will be closely monitored.
- The future reports shall focus on the developments in the passage of the American Jobs Act, introduced in September 2011. The President has adopted various means to advertise this initiative, but issues pertaining to its progress, especially the measures to pay for the Act are yet to be decided.
- The report will track the finality of proceedings of the various trade pacts pending before the Congress. The actual impact of the set targets shall be co-related to the speculated gains from these pacts.
- The accession of Russia is expected to be finalized by the end of this year. The next report shall highlight the progress in this field and fate of US legislations such as Jackson-Vanik law, enacted during the cold war period, denying MFN treatment to Russia.
- The future of two specific trade agreements- ACTA and TPP which have been subject to severe criticisms by civil society organizations within and outside the US shall be monitored closely and the terms on which they have been finalized shall be of special relevance for developing countries including India.
- The compliance of the United States towards elimination of its 'zeroing' practices in antidumping administrative review, and various compliance status reports submitted by the U.S. need to be monitored. Although US has not appealed the recent panel decisions on zeroing, yet is reluctant to accept this view and still maintains that it shall work towards its enforceability and WTO consistency during Doha Round negotiations.
- The progress of the ethanol subsidy which are set to expire by 2012, shall be tracked in the next report as there are speculations that the Congress would not extend the support.
- The subsidies provided in the field clean energy products needs to be monitored--especially the issues related to subsidies provided on solar energy products.
- The next report shall track all new initiatives under the National Export Initiative and allied programs which provide support to specific enterprises including for instance renewable energy programs, which were granted support during the current review quarter.
- The implementation of measures affecting imports, which have made certain inspection requirements more stringent for health and environment violations shall be monitored closely as it could be of pertinence for Indian exporters.

QUARTERLY REVIEW REPORT OF UNITED STATES
(JULY-SEPTEMBER, 2011)

Part I: Economic Situation in the US during the quarter period

The economic outlook for the U.S. economy brightened a little bit as of the ending of the Quarter on September 30, 2011. Data on jobs and growth suggested that the U.S is further from a slide back into a double-dip recession. In other terms, according some economists, U.S. was heading towards a "sluggish recovery." One of the biggest controversies which hit the status of the economy was its lowered ratings by *Standard and Poor's*, a credit rating agency on August, 2011, which indicated the looming debt crisis. The detailed analysis of different economic variables and their performance during the review quarter have been mentioned as below.

I.A. Gross Domestic Product (GDP)

In the U.S., the real gross domestic product, increased at an annual rate of 1.3 percent in the second quarter of 2011. This can be compared to an increase of 0.4 percent, which was reported in the first quarter as stated in the first review report. The increase in real GDP primarily reflected positive contributions from non-residential fixed investment, personal consumption expenditures (PCE), exports, and federal government spending that were partly offset by negative contributions from state and local government spending and private inventory investment.

Real non-residential fixed investment increased 10.3 percent, compared with an increase of 2.1 percent in the first quarter. Non-residential structures increased 22.6 percent, in contrast to a decrease of 14.3 percent. Real residential fixed investment increased 4.2 percent, in contrast to a decrease of 2.4 percent. Real exports of goods and services increased 3.6 percent in the second quarter, compared with an increase of 7.9 percent in the first. Real imports of goods and services increased 1.4 percent, compared with an increase of 8.3 percent.[1]

I.B. Current account and Capital account

The U.S. current-account deficit decreased to $118.0 billion (preliminary) in the quarter July- September of 2011, from $119.6 billion (revised) in the first quarter. The decrease was more than accounted for by increases in the surplus on income and the surplus on services. Increases in the deficit on goods and in net unilateral current transfers were partly offsetting.

Goods and services- The deficit on goods and services increased to $145.0 billion in the second quarter from $140.0 billion in the first.

Goods- The deficit on goods increased to $190.4 billion in the second quarter from $182.2 billion in the first. This was despite the increase in exports of goods to $373.1 billion from $361.5 billion. In the category of exports, industrial supplies and materials and capital goods accounted for most of the increase. The increase in industrial supplies and materials mostly reflected growth in petroleum and

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[1] National Income And Product Accounts Gross Domestic Product, 2nd Quarter 2011 (Third Estimate) Corporate Profits, 2nd Quarter 2011 (Revised Estimate), US Bureau Of Economic Analysis, Sep 29, 2011, Available At: Http://Www.Bea.Gov/Newsreleases/National/Gdp/2011/Gdp2q11_3rd.Htm

products and in chemicals. Capital goods increased largely as a result of gains in machinery and equipment.

Goods imports also increased to $563.5 billion from $543.8 billion, accounting for the deficit. Nearly three-fourths of the increase was accounted for by increases in industrial supplies and materials, mostly as a result of growth in petroleum and products and in iron and steel products. Capital goods rose as a result of growth in computers, peripherals, and parts. A decrease in automotive vehicles, parts, and engines, primarily due to a drop in passenger cars, was partly offsetting.

Services- The surplus on services increased to $45.4 billion in the second quarter from $42.3 billion in the first. Services receipts increased to $150.7 billion from $146.0 billion. The largest increases were in travel and in other private services. Most of the other services categories also increased. Services payments also increased to $105.2 billion from $103.8 billion. The largest increases were in travel, in other transportation, and in other private services.

Taking special note of the data showing the trends across July-August, 2011, it can be seen that imports of services decreased $0.2 billion from July to August. The decrease was more than accounted for by decreases in travel, other transportation (which includes freight and port services), and passenger fares. An increase in other private services was partly offsetting. Changes in the other categories of services imports were small.

The July to August increase in imports of goods reflected increases in industrial supplies and materials ($0.9 billion); other goods ($0.9 billion); and foods, feeds, and beverages ($0.1 billion). Decreases occurred in consumer goods ($0.8 billion); automotive vehicles, parts, and engines ($0.7 billion); and capital goods ($0.3 billion).[2]

The data for September 2011 is due on November 10, 2011, which shall be recorded in the third Trading Policy Monitoring Report of the U.S.

Capital Account- Net capital account payments were $0.8 billion in the second quarter, up from near zero over the previous two quarters.

Financial Account- Net financial inflows were $25.7 billion in the second quarter, down from $156.1 billion in the first. The slowdown resulted from a steep reduction in the growth of foreign-owned assets in the United States that more than offset a reversal from an increase to a decrease in U.S.-owned assets abroad.

I.C. Investment

Foreign direct investment in the United States was $47.7 billion in the second quarter, following investment of $28.5 billion in the April- June quarter. Nearly all of the increase resulted from increases in equity investment. Foreign official assets in the U.S. increased $94.6 billion in the second quarter,

[2] U.S. International Trade In Goods And Services, August 2011, USDOC, Bureau Of Economic Analysis, October 13, 2011, Available At: Http://Www.Bea.Gov/Newsreleases/International/Trade/2011/Trad0811.Htm

following an increase of $48.8 billion in the first. The increase was mostly due to net purchases of U.S. Treasury securities.

In the second quarter, the U.S. dollar depreciated 1.7 percent on a trade-weighted quarterly average basis against a group of 7 major currencies.[3]

I.D. Government Debt

On August 5, 2011 Standard & Poor's rating agency lowered the long-term rating of the U.S. government and federal agencies from AAA to AA+. The U.S current account deficit relative to GDP has been one of the most worrying aspect of the U.S public policy. In response to this, the federal banking agencies have issued several guidelines to maintain security guarantees.

It was declared that for risk-based capital purposes, the risk weights for treasury securities and other securities issued or guaranteed by the U.S. government, government agencies, and government-sponsored entities would not change. The treatment of treasury securities and other securities issued or guaranteed by the U.S. government, government agencies, and government-sponsored entities under other federal banking agency regulations, including, for example, the Federal Reserve Board's Regulation W, would also be unaffected.[4]

I.E. Trade deficit and Impact on dollar

In a report entitled, *U.S. International Trade: Trends and Forecasts*, prepared by Congressional Research Service (CRS) for the Congress,[5] the impact of trade deficit on dollar was analysed. The key findings of the report have been highlighted as follows:

General overview of trade deficit and past trends on impact of dollar

The report highlights that, overall U.S. trade deficits reflect a shortage of savings in the domestic economy and a reliance on capital imports to finance that shortfall. Many economists fear that the rising U.S. trade and current account deficits could lead to a large drop in the value of the U.S. dollar. The current account deficit, while decreasing from 6.0% of GDP in 2006 to 5.2% of GDP in 2007, 4.9% in 2008, and 2.9% in 2009, but rising to 3.4% in 2010, has placed downward pressure on the dollar, although the "safe haven" effect comes into play to have the opposite effect.

The report states that a weaker dollar boosts exports by making them cheaper, narrows the U.S. trade deficit. The report highlights statistical data enumerating that compared to a Federal Reserve index of major currencies weighted by importance to U.S. trade, the dollar has lost one-third of its value since 2002. The dollar had fallen against the euro, Japanese yen, British pound, Australian dollar, and Canadian dollar. Since November 2009, the dollar lost some value, partly due to the Federal Reserve's lowering of interest rates, but as the Eurozone debt crisis emerged in 2010, global investors again sought the safety of U.S. Treasury securities and bid up the price of dollars, but that surge was temporary.

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[3] U.S. International Transactions: Second Quarter 2011 Current Account, News Release, US International Transactions, Sep 15, 2011, USDOC, Bureau Of Economic Analysis, Available At: Http://Www.Bea.Gov/Newsreleases/International/Transactions/2011/Trans211.Htm

[4] Agencies Issue Guidance On Federal Debt, Aug 5, 2011, Board Of Governors Of Federal Reserves, Available At: Http://Www.Federalreserve.Gov/Newsevents/Press/Bcreg/20110805a.Htm

[5] Dick K. Nanto J. Michael Donnelly, U.S. International Trade: Trends And Forecasts, Congressional Research Services, September 6, 2011

The report cites another analysis done by the Economist Intelligence Unit (EIU) which reviewed the problems involved with currency misalignment and trade imbalances. The findings have been quoted as:

> "Tensions come against a related backdrop of continued trade imbalances. In particular, China and some other leading exporters are running very large trade surpluses, offset by sizeable deficits elsewhere, leading to the surplus countries accumulating massive foreign-exchange reserves. These imbalances reflect in part exchange-rate mismatches. The prospect, following the crisis, of weaker consumer demand in some deficit countries means that consumer demand in surplus countries needs to rise to compensate if strong global growth is to resume—in other words, imbalances need to be addressed. The IMF warned in its latest report on the global economy that rebalancing was vital and was proceeding too slowly.
>
> The fall in global trade as a result of the economic crisis went some way towards correcting imbalances, but the fundamental pattern persists. China's current-account surplus, for example, fell from 11% of GDP in 2007 to 6% in 2009, but the Economist Intelligence Unit forecasts that the surplus will narrow only modestly this year, to just under 5% of GDP. And we think the US current-account deficit, despite having fallen to 2.7% of GDP last year, will actually widen to 3.9% of GDP in 2010. It will remain at about that level in 2011-14."[6]

Impact of weakened dollar

The report provides a detailed analysis of a weakened dollar and its impacts. It states that although a weakened dollar helps to reduce U.S. trade imbalances, it also may reduce the dollar's attractiveness to foreign investors. If foreign investors stop offsetting the deficit by buying dollar denominated assets, the value of the dollar could drop, possibly precipitously. In that case, U.S. interest rates would have to rise to attract more foreign investment as financial markets could be disrupted and inflationary pressures could increase.

The report presents that currently foreign investment in dollar assets along with purchases of securities by investors seek a safe haven from central banks of countries such as China which have aided to bolster the value of the dollar. People's Bank of China intervened in currency markets to keep its exchange rate relatively stable.[7] As a result, as of February 2011 China held $1.1 trillion in U.S. Treasury securities.[8] As for Japan, following the March 2011 earthquake and tsunami, central banks intervened to buy dollars to decrease the value of the yen. As of February 2011, Japan held $890 billion U.S. Treasury securities.[9] A recent development in foreign country holdings of dollars and other reserve currencies is that some are turning toward creating sovereign wealth funds (SWFs). These are funds owned by governments that are invested in stocks, bonds, property, and other financial instruments denominated in dollars, euros, or other hard currency.

That said, the US Dollar has appreciated against many currencies during the July- September quarter.

[6] Viewswire, Economist Intelligence Unit. "World Economy: Co-Operation Lacking As Imbalances Persist." October 11, 2010
[7] Statistics On Chinese International Reserves Are Available From The Chinability Website, A Non-Profit Website That Provides Chinese Economic And Business Data And Analysis, At Http://Www.Chinability.Com/
[8] Statistics On Foreign Holdings Of U.S. Treasury Securities Are Available At Http://Www.Treasury.Gov/Tic/Mfh.Txt. For Further Information, See CRS Report RS22331, Foreign Holdings Of Federal Debt, By Justin Murray And Marc Labonte
[9] Statistics On Japanese International Reserves Are Released On A Monthly Basis By The Japanese Ministry Of Finance And Available At Https://Www.Mof.Go.Jp/English/

<u>How long can the United States keep running trade deficits?</u>

On answering this final question, the report states that U.S. deficits in trade can continue as long as foreign investors are willing to buy and hold U.S. assets, particularly government securities and other financial assets.[10] Their willingness depends on a complicated array of factors including the perception of the U.S. as a safe haven for capital, relative rates of return on investments, interest rates on U.S. financial assets, actions by foreign central banks, and the savings and investment decisions of businesses, governments, and households. The policy levers that influence these factors that affect the trade deficit are held by the Federal Reserve[11] (interest rates) as well as both Congress and the Administration (government budget deficits and trade policy), and their counterpart institutions abroad. Stating the contemporary policy stance, the report highlights that the 112th Congress, legislation directed at the trade deficit has been taking several strategies. Some bills address trade barriers by particular countries, particularly China. Others are aimed at preventing manipulation or misalignment of exchange rates or at imposing import duties to compensate for the arguably undervalued Chinese currency.[12]

The future of these and further progress on this issue shall be done in the subsequent trade policy monitoring reports.

I.F. Important Legislations

This part of the report will highlight the developments pertaining to introduction of certain key legislations in the U.S., including the American Jobs Act, legislation renewing the expired Generalized System of Preferences (GSP) program and also the legislation renewing key Trade Adjustment Assistance (TAA) reforms.

<u>American Jobs Act</u>

While introducing the bill of the American Jobs Act, President Obama stated: "*The purpose of the American Jobs Act is simple: to put more people back to work and more money in the pockets of those who are working*".[13]
The core features of the Act have been highlighted as follows:

> ***Box I: American Jobs Act 2011: Objectives and Features***
>
> • Cutting the payroll tax cut in half for 98 percent of businesses: The President's plan will cut in half the taxes paid by businesses on their first $5 million in payroll, targeting the benefit to the 98 percent of firms that have payroll below this threshold.
>
> • A complete payroll tax holiday for added workers or increased wages: The President's plan will completely eliminate payroll taxes for firms that increase their payroll by adding new workers or increasing the wages of their current worker (the benefit is capped at the first $50 million in payroll increases).

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[10] See Mann, Catherine L. Is The U.S. Trade Deficit Sustainable? Washington, Institute For International Economics, 1999. 224 P.; See Also CRS Report RL33274, Financing The U.S. Trade Deficit, By James K. Jackson, And CRS Report RS21951, Financing The U.S. Trade Deficit: Role Of Foreign Governments, By Marc Labonte.
[11] For Details, See CRS Report RS20826, Structure And Functions Of The Federal Reserve System, By Marc Labonte.
[12] For Legislation Related To Trade With China And The Chinese Currency, See CRS Report RL33536, China-U.S. Trade Issues, By Wayne M. Morrison, And CRS Report RL32165, China's Currency: Economic Issues And Options For U.S. Trade Policy, By Wayne M. Morrison And Marc Labonte.
[13] President Barack Obama, September 8, 2011, Available At: Http://Www.Whitehouse.Gov/Jobsact.

• Extending 100% expensing into 2012: This continues an effective incentive for new investment.

• Reforms and regulatory reductions to help entrepreneurs and small businesses access capital.

2. ***Putting Workers Back On the Job While Rebuilding and Modernizing America***

• Hiring tax credit for veterans: This provides tax credits from $5,600 to $9,600 to encourage the hiring of unemployed veterans.

• Preventing up to 280,000 teacher layoffs, while keeping cops and fire-fighters on the job.

• Modernizing at least 35,000 public schools across the country, supporting new science labs, Internet-ready classrooms and renovations at schools across the country, in rural and urban areas.

• Immediate investments in infrastructure and a bipartisan National Infrastructure Bank, modernizing our roads, rail, airports and waterways while putting hundreds of thousands of workers back on the job.

• A New "Project Rebuild", which will put people to work rehabilitating homes, businesses and communities, leveraging private capital and scaling land banks and other public-private collaborations.

• Expanding access to high-speed wireless as part of a plan for freeing up the nation's spectrum.

3. ***Pathways Back To Work for Americans Looking For Jobs***

• Unemployment insurance to prevent 5 million Americans looking for work from losing their benefits.

• A $4,000 tax credit to employers for hiring long-term unemployed workers.

• Prohibiting employers from discriminating against unemployed workers when hiring.

• Expanding job opportunities for low-income youth and adults through a fund for successful approaches for subsidized employment, innovative training programs and summer/year-round jobs for youth.

4. ***Tax Relief for Every American Worker and Family***

• The President's plan will expand the payroll tax cut passed last year to cut workers payroll taxes to half in 2012 – providing a $1,500 tax cut to the typical American family, without negatively impacting the Social Security Trust Fund.

• Allowing more Americans to refinance their mortgages at today's near 4 percent interest rates, which can put more than $2,000 a year in a family's pocket.

Source: *www.w*hitehouse.gov

To ensure that the American Jobs Act is fully paid for, the President will call on the Joint Committee to come up with additional deficit reduction necessary to pay for the Act and still meet its deficit target. The President will, in the coming days, release a detailed plan that will show how it can be done while achieving the additional deficit reduction necessary to meet the President's broader goal of stabilizing the debt as a share of the economy.[14]

It is interesting to note that the President used a televised address to the nation to unveil this $447billion package aimed at bringing down the country's high jobless total. According to several press reports which have covered the introduction of this Bill, President Obama stated that he would later announce what measures will need to be made to pay for this. He hinted this would include tax rises for wealthy tax payers, a move which was severely criticized by the Republicans. The Republicans further raised several skepticisms to this legislation and stated that the last stimulus package in 2009, introduced by President Obama which cost $789bn, failed to create new jobs. Therefore the success of even this legislation was

[14] The Amercian Jobs Act, Short Summary Available At: Http://Www.Whitehouse.Gov/Sites/Default/Files/Jobs_Act.Pdf

doubted. This legislation is at its consultation phase for final approval,[15] and its progress would be tracked in the third review report.

Trade Adjustment Assistance (TAA)

The Trade Adjustment Assistance Accountability Act of 2011 was introduced in the 112th Congress session and is currently pending before the committee. The aim of the Act introduced is to extend the Trade Act of 1974 with respect to the trade adjustment assistance program, and for other purposes.

An analysis of the current status of the program along with its antecedent legislations was done in a CRS report entitled, "*Trade Adjustment Assistance (TAA) and Its Role in U.S. Trade Policy*". The report states that historically, TAA has been reauthorized separately from trade agreement implementing bills, in part because it had already been accomplished by the time such a bill was presented to Congress, but also because when TAA was addressed in a trade bill, it tended to be one focused on broader trade policy. On occasion, attempts have been made to include TAA provisions as amendments to draft implementing bills during "mock mark-ups," but generally they have not been reported out of committee. In 2005, TAA amendments were offered in the Senate to a draft implementing bill for the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), but it was not included by the Bush Administration's final bill sent to Congress. The TAA programs, however, had already been reauthorized through fiscal year 2007, so there was no immediate need for legislative action.

The report however points out that the situation is perhaps different in the 112th Congress, in part because the ARRA-based TAA expansion has lapsed and the rest of the program authorizations will expire in early 2012. Supporters see the implementing bill as an opportunity to reauthorize TAA, particularly given the divided attitudes toward TAA in Congress and increased pressure to prioritize deficit reduction. Others disagree on whether or how to move TAA legislation. Still, as in many cases in the past, it appears as though congressional action on trade policy is unlikely to be completed without consideration of TAA reauthorization.[16]

The report further highlights the following key issues with respect to the introduced legislation in the Congress.

According to the report, the Congressional views of TAA reauthorization range from repeal to support for the higher ARRA program and funding commitments. Supporters see TAA as vital to addressing the costs of freer trade and opponents view it as costly and question its effectiveness. At present, a bipartisan compromise is being considered on TAA that would allow for extension through December 31, 2013 of many, but not all, of the enhanced programs and funding levels contained in the ARRA.[17] The language incorporated in the KORUS FTA implementing bill provides a preliminary view of this compromise.[18] Procedural issues over how to move the TAA and FTA implementing bills are still under discussion. As a first cut, the two Houses of Congress debated whether to attach TAA to the KORUS FTA draft implementing bill. The Senate Finance Committee completed a "mock markup" of the KORUS FTA draft implementing bill on July 7, 2011 that included TAA. The House Ways and Means Committee, in a simultaneous mock mark up, approved a draft bill without it.

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[15] *Barack Obama Unveils $447bn Jobs Plan, Sep 9, 2011,* The Guardian, Available At Http://www.guardian.co.uk/World/2011/Sep/09/Ewen-Macaskill-In-Washington?Intcmp=239

[16] J. F. Hornbeck, *Laine Elise Rover Trade Adjustment Assistance (TAA) And Its Role In U.S. Trade Policy*, Aug 11, 2011, CRS

[17] Congressional Staff Close To Deal On How To Move Ftas, TAA," Inside U.S. Trade, July 27, 2011.

[18] U.S. Congress, Senate Committee On Finance, United States-South Korea Free Trade Agreement Implementation Act Statement Of Administrative Action, Draft, 112th Cong., 1st Sess., June 28, 2011, Pp. 32, 36-39.

The report also analyses that including TAA as part of a trade agreement implementing bill has proven problematic for at least two reasons: *First*, rules governing the treatment of FTA implementing bills under TPA require that they contain only provisions changing laws or providing new statutory authority that are "necessary or appropriate" to implementing the agreement, raising the question for some as to whether TAA provisions meet this standard. Supporters note that the NAFTA implementing bill included TAA provisions. Detractors point out that it was a TAA program specific to NAFTA and not a reauthorization of the program in its entirety, which has never been done in an implementing bill.

The "necessary or appropriate" language, however, is subject to congressional interpretation, and opinions differ as to whether the NAFTA-TAA example constitutes an exception or precedent for inclusion of TAA in an FTA implementing bill.[19]

Because TAA and the three FTAs are controversial issues, Members also have differing viewpoints on each of the four possible bills. Many, therefore, would like the chance to vote separately on each of them.[20] Congress is now considering the possibility of taking up TAA in a separate bill. This option has presented a sequencing problem, with congressional leaders still debating the order in which the various bills might be taken up to ensure that all are considered simultaneously.[21]

A final determination has not been announced and the progress of this legislation shall be tracked in the future reports.

Extension of GSP Scheme

On September 9, 2011, the House of Representatives of the US Congress approved the proposed extension of the GSP scheme until July 31, 2013 and retroacted the program from December 31, 2010. On October 21, 2011, President Obama signed legislation to reauthorize the GSP program through which will become effective 15 days after the President signs the bill, i.e. November 5, 2011, and will apply retroactively from January 1, 2011. [22]

About the scheme- The U.S. Generalized System of Preferences (GSP) is a program designed to promote economic growth in the developing world by providing preferential duty-free entry for up to 4,800 products from 129 designated beneficiary countries and territories. GSP was instituted on January 1, 1976, by the Trade Act of 1974.

Implications for India- Several developing countries including India would be benefitted by the scheme. The Indian government had been waiting for this extension.[23] India's exports of jewellery graduated out of the GSP scheme in 2007 when exports touched $2 billion, but it continues to get the benefit for products like handicrafts, carpets, other textile floors, wind-power generators, certain chemicals and motor vehicle parts. The extension would prove useful for all these key industries which find US as their key export market. The extension would also prove beneficial for India to get an edge against its competitor Chinese goods as China is not a beneficiary under the GSP scheme.

I.G. Progress of the National Export Initiative during review quarter

[19] "Finance Approves Ftas, TAA At Mock Markup, Rejects All Amendments," Inside U.S. Trade, July 8, 2011. The Customs Reauthorization Language In The NAFTA Bill Is Also Cited, But Arguments On Either Side Can Be Heavily Nuanced.
[20] "Some Progress On FTAs," Washington Trade Daily, July 14, 2011
[21] Congressional Staff Close To Deal On How To Move Ftas, TAA," Inside U.S. Trade, July 27, 2011
[22] Generalized Scheme Of Preferences, Office Of The USTR, Available At: Http://Www.Ustr.Gov/Trade-Topics/Trade-Development/Preference-Programs/Generalized-System-Preference-Gsp
[23] Amiti Sen, India Appeals To US Senators For Revival Of Duty-Free Imports, The Economic Times, July 13, 2011

The background and overview of the National Export Initiative has elaborately been dealt with in the first quarterly report. Under this initiative, the first half of 2011, witnessed the largest state exporter as Texas with more than $120 billion in merchandise exports. Texas was followed as a leading exporter in the first half of 2011 by California ($77.4 billion), New York ($41.4 billion), Illinois ($31.4 billion), and Florida ($31.0 billion). Some of the further developments recorded during the quarter includes:

(1) During September 2011, the International Trade Administration completed its trade development mission to South Africa. The mission focused on the sustainable and efficient energy, aerospace, educational services and skills development sectors. The mission whereby American companies are to pay a key role in South African energy sector, advances President Obama's National Export Initiative, which aims to double U.S. exports by the end of 2014, supporting economic and job growth in the United States.[24]

(2) Under Secretary for International Trade and the State International Development Organization (SIDO)[25] signed a Memorandum of Intent (MOI) on September 7, 2011 to formalize coordination to meet the goals of the President's National Export Initiative. The MOI will enhance ITA's partnership with state trade agencies to deliver the services necessary to assist U.S. companies to successfully export their products and services and enter new foreign markets. The aim of the Commerce Ministry is to work with bodies such as SIDO and attract more small and medium-sized businesses to tap into resources that will help them find new customers.[26]

PART II TRADE AND INVESTMENT POLICY FRAMEWORK

II.A. Trade Agreements

On October 3, 2011, Whitehouse officials submitted the three trade pacts, viz., FTAs with Colombia, Panama, and South Korea to the U.S. Congress. The recent submission of the FTAs was preceded by weeks of legislative maneuvering to ensure the renewal of a 2009 extension to Trade Adjustment

[24] U.S. Companies Explore Export Opportunities During Trade Misison To South Africa, 23RD SEP, 2011, International Trade Administration, Available At: Http://Trade.Gov/Press/Press-Releases/2011/Us-Companies-Explore-Export-Opportunities-During-Trade-Mission-To-South-Africa-092311.Asp

[25] SIDO Is A Non-Profit Affiliate Organization Of The Council Of State Governments That Represents The Trade Promotion Organizations Of The State Governments.

[26] New Public-Private Partnership Extends Support For President Obama's National Export Initiative, ITA, Sep 7, 2011, Available At: Http://Trade.Gov/Press/Press-Releases/2011/New-Public-Private-Partnership-Extends-Support-For-President-Obamas-National-Export-Initiative-090711.Asp

Assistance (TAA).[27] The scaled back version of the TAA extensions, which the Senate passed on 22 September, 2011 was included as an attachment to the renewal of the popular US Generalized System of Preferences, a programme that provides preferential duty free access for up to 4800 products from 129 designated beneficiary countries and territories.

President Obama stressed that the deals "*will support tens of thousands of jobs across the country for workers making products stamped with three proud words: Made in America*." The officials project the benefits from these FTAs by taking aid of the following statistics:

U.S.- Korea FTA

The U.S. –Korea trade agreement is estimated to:

- Support at least 70,000 American jobs, and boost annual exports of American goods by up to $11 billion through tariff reductions.
- Create new opportunities for U.S. exporters in Korea's $1.5 trillion economy, the 12th largest in the world in 2010, based on purchasing power parity exchange rates.

U.S.- Colombia FTA

The U.S. – Colombia trade agreement is estimated to:

- Generate new possibilities in the 3rd largest economy in Central and South America.
- Reduce barriers to U.S. exports, spurring new opportunities for our businesses, workers, farmers and ranchers, thereby supporting more and better jobs for Americans.

U.S.-Panama FTA

The U.S. – Panama trade agreement is estimated to:

- Provide new possibilities with one of the fastest growing economies in Latin America, expanding 6.2 percent in 2010, with similar annual growth forecast through 2015.
- Enhance U.S. competitiveness by eliminating tariffs and other barriers to U.S. exports and expanding trade between our two countries.

However critics still maintain fears of job losses in the case of South Korea, concerns over labour rights with regards to Colombia, and issues of tax evasion in the case of Panama as primary reasons for not moving these trade agreements forward. In the coming weeks of October, votes on both TAA and the trade pacts are expected.[28] The progress of the same shall be monitored in the 3rd review quarter report.

II.B. Trade Negotiations

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[27] For A Background Of Taas Creating Obstacles For These Trade Pacts, Refer To Review Quarter Report 1.

[28] ICTSD Reporting; "Obama Submits Three Free-Trade Accords To U.S. Congress For Ratification," BLOOMBERG, 3 October 2011; "Obama To Go Multilateral On Trade," Foreign Policy, 3 October 2011; "Free Trade Standoff Is Resolved," New York Times, 3 October 2011; "Disputed Trade Pacts Advance," Wall Street Journal, 3 October 2011; "Trade Pacts Set For Heated Fight," Wall Street Journal, 4 October 2011, Cited From Bridges Weekly Trade News Digest • Volume 15 • Number 33 • 5th October 2011, After Long Delay, US Ftas With Korea, Colombia, Panama Submitted To Congress, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/114974/

US- Russia

It is speculated that Russia could become the 154th member of the WTO by December's ministerial conference after protracted negotiations. At the US-Russia Trade Event organized at Chicago during the first week of October, 2011, Russian First Deputy Prime Minister Igor Shuvalov, stated: "[W]*e have Americans working 24 hours a day on our application in order to persuade other WTO members that Russia should get membership before the end of the year*." Further USTR's Ron Kirk also asserted that the two nations had a productive conversation and that Russia has made "great progress" in its accession bid. According to reports from the New York Times, negotiators seem to have removed most of the obstacles that have been blocking Russia's accession to the WTO. The issues of contention are as follows:

- sanitary standards, meat imports,
- incentives for Russian automobile producers

Russia's accession to the WTO would also require the United States to establish permanent normal trade relations with Russia. Doing so would require the US Congress to repeal a Cold-War era amendment that allows the US to deny most favoured nation (MFN) status to nations with limited freedom of emigration under Article XXXV of the WTO's General Agreement on Tariffs and Trade (GATT). The Jackson-Vanik amendment is still a law in the US, though Washington has found Russia to be in compliance with emigration conditions since 1994.

Russia also seems to have negotiated with the EU, however question of Georgia still remains uncertain. In the US-Russia meeting, USTR's office also expressed confidence that Russia's differences with Georgia would reach a "satisfactory resolution." However if the accession gets delayed beyond February, 2011 and Vladimir Putin comes back to the presidential office, US may have problems in repealing the Jackson-Vanik Act, which could complicate the entire process. Further it is also stated that President Putin has own skepticisms of joining the WTO.[29] The progress of US-Russian relationship shall be closely monitored in the coming reports.

US- Kazakhstan

During September, 2011 as part of Kazakhstan's negotiations to join the WTO, Deputy U.S. Trade Representative and Minister of Economic Integration Affairs of the Republic of Kazakhstan signed a WTO bilateral market access agreement. The agreement signed on Wednesday will allow U.S. service providers to benefit from significantly expanded opportunities in Kazakhstan's markets once it joins the WTO. U.S. businesses will be able to continue to expand in Kazakhstan in sectors where the United States is a world leader, including energy, financial services, movies and television, express delivery, and computer services. Following the conclusion of Kazakhstan's bilateral services agreement with the United

[29] ICTSD Reporting; "Georgia To Clinton: We Won't Budge On Russia's WTO Bid," Foreign Policy, 27 September 2011; "Russia Declares It Is Close To Joining The World Trade Organization," NEW York Times, 4 October 2011; "EU Nears Deal On Russia Joining WTO - Sources," Reuters, 23 September 2011; "Kirk Sees Russia Joining WTO In 2011," Reuters, 3 October 2011; "Putin Presidency Bid Lends Urgency To WTO Talks: EU Officials," Reuters, 26 September 2011; "Russia's 2011 WTO Entry Hinges On EU: Kremlin," Reuters, 15 September 2011; "Update 1-U.S. Vote On Russia Trade Looms As WTO Deal Nears," Reuters, 29 September 2011; "Putin Return Complicates U.S. Policy," Wall Street Journal, 26 September 2011, Cited From: Bridges Weekly Trade News Digest • Volume 15 • Number 33 • 5th October 2011, Russia Picks Up Speed On Road To WTO Accession, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/114971/

States, the focus of Kazakhstan will now shift to the multilateral negotiations at the WTO in Geneva, Switzerland. [30]

US- COMESA[31]

During September, 2011, USTR Ron Kirk hosted trade talks with a delegation from the Common Market for Eastern and Southern Africa (COMESA) - the largest regional economic organization in Africa and a key United States trading partner. The talks were held under the U.S.-COMESA Trade and Investment Framework Agreement (TIFA), which provides a high-level forum for advancing a cooperative partnership on bilateral trade and investment issues.

Background of US-COMESA: Total bilateral goods trade between the United States and COMESA countries was $15.1 billion in 2010, with U.S exports totaling $9.3 billion, i.e. a 20 percent jump from the previous year. U.S imports from those countries totaled $5.8 billion in 2010, which is 6 percent above what it was in 2009. Egypt was by far the United States' top COMESA trading partner last year, with the bilateral trade between the countries totaling $9 billion. Top U.S. exports to COMESA countries in 2010 were aircraft, cereals, machinery, and vehicles. Top imports that year included oil, apparel, and chemicals.

The TIFA Council meeting examined the two governments' joint work on a number of trade-related issues, including implementation of the African Growth and Opportunity Act (AGOA), agricultural trade and cooperation, export diversification, intellectual property rights, infrastructure issues, and COMESA's progress towards regional integration. In addition to high-level officials from the COMESA Secretariat and member States, U.S. officials from a range of agencies, including the Departments of Agriculture, Commerce, Energy, and Transportation, the U.S. Agency for International Development (USAID), the U.S. Trade and Development Agency, the Millennium Challenge Corporation and the Overseas Private Investment Corporation, also participated in the meeting.

Following the government-to-government TIFA Council consultations, Deputy U.S. Trade Representative, co-chaired a roundtable discussion with senior officials from the U.S. Government, COMESA and its member states, as well as representatives from the United States business community, including the Corporate Council on Africa. This discussion focused on how the United States can partner with the private sector to further advance regional integration in Africa.[32]

US- Pakistan

During September 2011, senior officials from the Governments of the United States and Pakistan met to continue their trade dialogue and evaluate progress under the United States-Pakistan Trade and Investment Framework Agreement (TIFA). The officials discussed a wide range of investment climate issues including market access, the U.S. Generalized System of Preferences (GSP), trade promotion efforts, intellectual property rights, and sector-specific investment challenges.

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[30] United States And Kazakhstan Sign Bilateral Agreement That Will Open Markets, Support American Jobs, Press Release, September 2011, Office Of The USTR, Available At: Http://Www.Ustr.Gov/About-Us/Press-Office/Press-Releases/2011/September/United-States-And-Kazakhstan-Sign-Bilateral-Agre

[31] COMESA's 19 Member States Include Burundi, Comoros, Democratic Republic Of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, And Zimbabwe

[32] Ambassador Kirk Lauds The Common Market For Eastern And Southern Africa For Advancing Regional Economic Integration, Strengthening Trade Relationship, September 2011, Office Of The USTR, Available At: Http://Www.Ustr.Gov/About-Us/Press-Office/Press-Releases/2011/September/Ambassador-Kirk-Lauds-Common-Market-Eastern-And-0

Background of US-Pakistan TIFA: The meeting marks the fifth meeting of the U.S.-Pakistan TIFA Council. The U.S.-Pakistan TIFA, which was signed in 2003, has been the primary forum for bilateral trade and investment discussions between the two countries. The TIFA process has been the focal point of a sustained and multi-faceted high-level engagement between the United States and Pakistan on trade and investment issues, including addressing impediments to greater trade and investment flows between the Parties. U.S.-Pakistan trade and investment flows witnessed significant improvements in 2009-2010, notably a 17.5% increase in U.S. exports and a 25% increase in investment from Pakistan to the United States.

In the subsequent week in Islamabad, both sides agreed to work together on measures that will promote private sector engagement between the two countries and create legitimate and productive enterprises for the Pakistani people. As part of that effort, the United States will work with the U.S. Congress to enact Reconstruction Opportunity Zones (ROZ) legislation. In addition, both delegations reviewed trade promotion efforts and agreed to continue collaboration, including support for Pakistani exhibitors to participate in major U.S. trade shows. Pakistan also asked for support of its program to assist women-owned enterprises in rural areas of the country. The U.S. delegation agreed to follow up on the proposal once it is received. Pakistan provided an overview of its efforts to export mangos to the United States and expressed its satisfaction in the assistance they received but mentioned that additional work must be done. The U.S. delegation confirmed its continued support for the ongoing Pakistan trade capacity building program.

The two delegations also met with U.S. and Pakistani companies to discuss their experiences as investors in Pakistan and listened to their views about how best to improve the trade and investment climate in both countries. The Parties expressed their desire to reach agreement in the coming weeks on dates for the next TIFA Council meeting to be held in Washington in 2012.[33]

The future of this relationship shall be closely monitored as it the growing US-Pakistan trade affairs could have probable consequences for India.

US- Tunisia

During the end of the review quarter, September 2011, Assistant United States Trade Representative for Europe and the Middle and Assistant United States Trade Representative for Services and Investment led a U.S. delegation in talks with the Government of Tunisia. The talks were focused on re-launching discussions under the 2002 bilateral Trade and Investment Framework Agreement (TIFA). The U.S. delegation, which included officials from USTR and the U.S. Embassy in Tunis, also held several meetings with representatives of the Tunisian business community and private sector.

U.S. delegation met with a wide range of both private sector representatives and government officials in order to gain a broad perspective on the economic opportunities and challenges involved in the nation's historic transformation. In particular, Tunisia hopes to use its highly educated, skilled, and youthful population to become a regional economic hub.

At the conclusion of their visit, the U.S. and Tunisian delegations established working groups to carry forward the work of the newly re-launched TIFA. These groups will develop work plans across a range of areas intended to support bilateral trade and investment and regional economic integration. The work

[33] Readout From The Fifth Meeting Of The U.S.-Pakistan TIFA Council, Press Release, September 2011, Office Of The USTR, Available At: Http://Www.Ustr.Gov/Readout-Fifth-Meeting-Us-Pakistan-Tifa-Council

plans will include, for instance, trade facilitation; trade and investment promotion (especially with respect to small-and medium-sized enterprises (SMEs); reduction of barriers to investment in key service sectors such as information and communications technology (ICT) services, financial services, and clean energy services; strengthening the protection of intellectual property rights; and promoting the rule of law through greater transparency, including public participation in rule-making; and anti-corruption efforts. These working groups will report on their progress at the first newly launched TIFA Council meeting.[34]

US- India

During September, 2011, United States Trade Representative Ron Kirk and Indian Minister of Commerce, Industry and Textiles Anand Sharma met in Washington, D.C. to discuss ways to strengthen the growing bilateral trade and investment relationship, including through more active engagement under the U.S.-India Trade Policy Forum (TPF). The TPF is the primary bilateral mechanism for addressing trade and investment issues. The USTR and the Indian Commerce Minister agreed that the TPF played a critical role in promoting trade and investment flows between the two countries to higher levels that better reflected the importance of the bilateral economic partnership. They reaffirmed their commitment to helping ensure that the TPF produce concrete outcomes that would be meaningful to workers in both countries.

Both sides also welcomed the upcoming technical discussions on the BIT. They expressed support for holding an additional round of discussions before the next TPF meeting and working constructively to move those discussions forward in a timely manner.[35]

Anti-Counterfeit Trade Agreement- On October 1, 2011, eleven negotiating parties gathered in Tokyo, Japan for the ACTA signing ceremony. The eight signatories included Australia, Canada, Japan, Morocco, New Zealand, Singapore, South Korea, and the US. While the signing of the pact is a major step forward toward the agreement coming into force, the agreement still needs to be ratified by at least six parties before becoming binding. The signing of the agreement has prompted questions over the agreement's consistency with domestic and international laws. The Office of the USTR, in its announcement of the signing asserted that "*ACTA is consistent with existing U.S. law and does not require the enactment of implementing legislation*" - implying that the agreement would not require congressional approval to bind the US to its commitments. This assertion has drawn questions from civil society groups, who have also expressed fears over the agreement's overall consistency with the domestic laws of signatory countries, particularly the US.

The agreement as discussed previously,[36] continues to draw criticism from civil society groups. The concerns emanate from negotiations' perceived lack of transparency and over concerns whether ACTA's terms go beyond what is necessary to target counterfeiting and piracy - to the point of potentially undermining intellectual property norms of multilateral institutions like the WTO and WIPO.

While some of the language of the final ACTA bill was watered down to address these concerns, fears remain over freedom of access to information and culture - an issue that was a large driver behind the

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[34] United States And Tunisia Re-Launch Bilateral Trade And Investment Talks In Support Of Tunisia's Democratic Transition, Press Release, October 2011, Office Of The USTR, Available At: Http://Www.Ustr.Gov/About-Us/Press-Office/Press-Releases/2011/October/United-States-And-Tunisia-Re-Launch-Bilateral-Trad

[35] Ambassador Kirk And Indian Minister Sharma Work To Stregthen Bilateral Trade Relations, September 2011, Office Of The USTR, Available At: Http://Www.Ustr.Gov/About-Us/Press-Office/Blog/2011/September/Ambassador-Kirk-And-Indian-Minister-Sharma-Work-Stregthen

[36] The Quarter Review Report 1, Discussed How ACTA Has Been a Source of substantial debate in terms of the Agreement's potential impact on non-signatory countries.

Mexican Congress' June resolution asking the Mexican President not to sign ACTA and over the higher norms for damages in ACTA relative to the WTO's Agreement on TRIPS. The issue of whether other TRIPS-plus provisions in ACTA will hamper access to medicines has also drawn substantial criticism from scholars and observers.[37]

Trans-Pacific Partnership- During September 9-15, 2011, the eighth round of talks for the proposed nine-country Trans-Pacific Partnership agreement was held in Chicago. It showed movement in several areas, with negotiators now ready to address "sensitive areas." The negotiations also drew pro-labour activists pushing for strong labour standards, and saw the US present a drugs plan for discussion. Negotiators are aiming to have an outline of an agreement by November's Asia Pacific Economic Cooperation (APEC) Leaders' meeting. According to reports from the USTR's office, negotiators are near closure on areas such as customs, technical barriers to trade, telecommunications, government procurement, small and medium-sized enterprises, regulatory coherence, competitiveness, and development. However, according to the office, areas such as intellectual property and investment still require more work.

The two critical issues, viz., intellectual property (IP) and labour rights have attracted a significant deal of attention and discussion.

The issue on IP had earlier gained attention as nearly three dozen US senators sent a letter to USTR Ron Kirk on September 12, 2011 urging him to "propose a strong minimum term of regulatory data protection for biologics consistent with US law." Current US law allows for 12 years of protection for biologics, which are vaccines and drugs made from living cells. Meanwhile, at the Chicago talks, US negotiators introduced a drug plan known as Trade Enhancing Access to Medicines (TEAM). While the texts of the actual plan and its relationship to US laws protecting biologics were not made publicly available, a white paper outlining the plan's goals has been published. The plan would establish a "TPP access window" to speed up access to medicines, eliminate tariffs on medicines and medical devices, and improve legal certainty for manufacturers of generic medicines. The paper also urged that TPP parties reaffirm their commitment to the Doha Declaration on the TRIPS Agreement and Public Health.

However critics raise skepticism about the US position. The US manager of Médecins Sans Frontières' (MSF) Campaign for Access to Essential Medicines stated: "The USTR paper on the TPP and access to medicines, released today, is misleading and puts forth the fundamentally flawed premise that speeding up market entrance of brand-name, monopoly-priced drugs will, in itself, solve the challenge of access to affordable medicines." Fears over the intellectual property provisions of the prospective accord have long been expressed by public health groups, many of which worry that the TPP could contain stricter rules than those in the WTO's TRIPS Agreement and, as a result, make it difficult for developing countries to access medicines". These groups have also claimed that the US' current stance in the trans-Pacific negotiations deviates from their position on intellectual property rights in 2007, when the US was negotiating an FTA with Peru. In that case, the US legislators passed a bipartisan agreement that included special flexible optional provisions on health related matters, enabling the FTA to receive Congressional approval while at the same time answering to public health concerns.

[37] ICTSD Reporting; "As Bilateral Deals Proceed, WIPO Hears Warnings, Calls For Change," Intellectual Property Watch, 4 October 2011; "Anti-Counterfeiting Agreement Signed In Tokyo," REUTERS, 1 October 2011, Cited From: Bridges Weekly Trade News Digest • Volume 15 • Number 33 • 5th October 2011, Eight Countries Sign Anti-Counterfeiting Trade Pact, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/114959/

The Chicago meetings also drew pro-labour activists to the event, arguing for pro-labour safeguards to be included in the agreement. Democrats have also been urging US President Barack Obama to proceed on those same lines, suggesting that the agreement includes labour provisions that were part of a May 2007 deal reached during the administration of former US President George W. Bush. The Bush-era agreement includes, among other provisions, the option of using trade sanctions to enforce labour provisions. Observers suggest that this could be of particular concern for Brunei, Malaysia, and Vietnam.

Vietnam chief negotiator Ng Bee Kim, speaking to Reuters, did not comment in detail on whether those types of provisions would meet his country's approval, but did explain that Vietnam has labour laws and is a member of the International Labour Organization. Further discussions would have to wait until after the US proposes labour texts. According to Reuters, a news agency, the US will present proposals on texts regarding state-owned enterprises prior to next week's TPP negotiations in Peru. US proposals on labour rights will likely take longer to finalise. The next round of negotiations is scheduled for October in Peru. The negotiators are said to be aiming for an outline of the TPP deal by the November 8-13 meeting of APEC leaders in Honolulu, US.[38] The third quarterly review report shall follow these upcoming developments.

US-China trade policy

During the review quarter, there were some crucial developments on US's trade policy towards China. Therefore they require some elaborate deliberation, pertaining to the following highlighted issues:

Legislation to counter China's Currency devaluation-The US Senate is prepared to take up a legislation primarily targeting China's valuation of its currency, with senators voting on 3 October, 2011 to begin debate on a bill that would allow the US to impose duties on countries that undervalue their currencies. The 79-19 procedural vote to open up debate on the bill propelled it into a week of discussion on the Senate floor, with a vote on the actual legislation expected in the coming days. Last year, the Currency Reform for Fair Trade Act, a similar bill was passed in the House with overwhelming bipartisan support which eventually died in the Senate.

US Federal Reserve Chairman Ben Bernanke supporting the legislation, addressed the impact of China's strict control of the yuan, also known as the renminbi, stated: "Right now, our concern is that the Chinese currency policy is blocking what might be a more normal recovery process in the global economy. It is to some extent hurting the recovery,"

However the business houses in the US have not supported this move. They rather insist that policies should be designed to tackle issues such as: IP rights, market access, raw materials etc., rather than a unilateral policy which could be counterproductive.

Meanwhile, China showed a strong and co-ordinated opposition against the proposed bill, with statements being released simultaneously by several government ministries. The foreign ministry spokesman Ma Zhaoxu stated that measures would "seriously violate rules of the World Trade Organization and obstruct China-US trade ties," He added that trade co-operation between the two countries has produced mutual benefits, and stressed that "it is widely understood that the exchange rate

[38] ICTSD Reporting; "US Offers Drugs Plan At Trans-Pacific Trade Talks," AFP, 12 September 2011; "U.S. Says Good Progress Is Made Toward Nine-Nation Pacific Trade Agreement," Bloomberg, 15 September 2011; "Senators Want IP Rights Defended In Trade Talks," The Hill, 12 September 2011; "Update 2-Trans-Pacific Trade Talks On "Solid Path" To Deal-US," Reuters, 15 September 2011; "US Delays Sensitive Topics In Trans-Pacific Talks," Reuters, 14 September 2011, Cited From: Http://Ictsd.Org/I/News/Bridgesweekly/114215/

of the renminbi, the Chinese currency, is not the cause of the Sino-US trade imbalance." China's central bank also expressed worry about the implications of the US Senate legislation, cautioning that this bill could harm China's currency reform and lead to a trade war. The Ministry of Commerce spokesman, Shen Danyang, said that the US-China trade imbalance should not be blamed on China's currency policies, stressing instead that the US limit of high-tech product exports to China was a major cause of the trade imbalance.

While the bill is largely expected to pass the Senate, its fate in the House of Representatives is less clear. Republicans are generally less supportive of measures that could hurt trade. However, ninety-nine Republicans voted for a similar bill last year, which would have treated undervalued currencies as export subsidies. In addition, the new Senate Bill appears to already have well over 200 co-sponsors in the House. The White House's position is also unclear. Speaking to reporters the White House Press Secretary Jay Carney said that, while the Obama administration "share[s] the concern of members about the valuation of the Chinese currency… we also are concerned that any action that might be taken would be effective and consistent with our international obligations."[39] The progress of this legislation shall be tracked in the future reports.

China's rare earth exports issue - Officials from the EU, US, and Japan have agreed to meet in Washington in October to find ways to reduce demand for China's rare earth exports, according to both reports from the US Department of Energy and a recent EU proposal. The plan comes in the wake of China's recent decision to halt production of the minerals at three major mines in Jiangxi province, a move that is expected to cut global supplies and raise global prices. In addition to exploring options for reducing demand and ensure rare earth supplies, observers suggest that officials are likely to discuss their next move on the subject at the WTO.

Each of the major economies is considering a range of responses to counteract China's supply restrictions. The EU has promised to raise the issue in two major meetings with senior-level Chinese officials in October and December. Brussels has also mimicked earlier moves by the US, Japan, and South Korea to stockpile the metals and augment future supply restrictions. In the upcoming meeting, the EU, US, and Japan are expected to discuss increasing domestic production, reducing industrial demand, increasing imports from other international suppliers such as Canada and Australia, and finding new ways to substitute for the rare earth ingredients in the production of high-tech goods.

In addition, observers expect the EU, US, and Japan to discuss WTO litigation of the issue in the October meeting, given that each has previously considered taking legal action on this issue. China justified its mine closures by citing concerns over the environmental damages that result from production of the rare earths.[40]

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[39] ICTSD Reporting; "China Currency Bill Runs Into GOP Opposition," Bloomberg, 5 October 2011; "Bernanke Criticizes China Over Currency," Financial Times, 4 October 2011; "China Warns Of 'Trade War' Over Currency Bill," Financial Times, 4 October 2011; "Reid Selling Currency Bill As Jobs Legislation," THE HILL, 3 October 2011; "Senate Votes 79-19 To Move Bill Punishing China On Currency," The Hill, 3 October 2011; "Trade Associations Urge Senate To Abandon China Currency Bill," The Hill, 21 September 2011; "Corrected-Update-1-China Says 'Adamantly Opposes' US Senate Currency Bill," Reuters, 3 October 2011; "Senators Court 2012 Voters With China Currency Bill," Reuters, 2 October 2011; "Wider Trade Gap Could Propel China Currency Bill," Reuters, 11 August 2011; "China Rips Senate But Repeats Reform Pledge," THE Wall Street Journal, 4 October 2011, Cited From: Http://Ictsd.Org/I/News/Bridgesweekly/114965/

[40] ICTSD Reporting; "Rare Earth Prices Soar As China Stocks Up," Financial Times, 19 June 2011; "China Consolidates Grip On Rare Earths," New York Times, 15 September 2011; "China Halts Rare Earth Production At Three Mines," Reuters, 6 September 2011; "EU To Develop Rare Earth Substitutes With US, Japan," Reuters, 7 September 2011; "EU Wants Rare Earth Clarity From China: Trade Chief," Reuters, 14 September 2011; "US, EU, Japan To Discuss Rare Earths In October," Reuters, 9 September 2011; "China Moves To Strengthen Grip Over Supply Of Rare-Earth Metals," Wall Street Journal, 7 February 2011,

II.C. Investment treaty

US- Rwanda

During September, 2011, United States Senate took a major step forward in expanding trade and investment relations between the United States and Rwanda by unanimously approving the United States-Rwanda Bilateral Investment Treaty (BIT).

The treaty will provide investors with legal protections that underscore the shared commitment of the United States and Rwanda to open investment and trade policies. It will also help further economic growth in Rwanda by reinforcing that government's economic reform program, which has rebuilt the Rwandan economy since the 1994 genocide. U.S.-led investment in Rwanda is poised to increase in the coming year, helping to grow both the American and Rwandan economies.

This is the first BIT that the United States has concluded with an African country in nearly a decade. It can serve as a model for future agreements with other African countries, including Mauritius, where a BIT is under negotiation; Ghana, where a BIT has been proposed; and with the East African Community, where a regional investment agreement has been proposed. The United States currently has five BITs in force in sub-Saharan Africa, with Cameroon, the Democratic Republic of Congo, Mozambique, the Republic of Congo, and Senegal.[41]

II.D. Aid for Trade

During the review quarter, there were several aid-for-trade initiatives undertaken by the US. The precise mention of each of the initiative has been highlighted as below:

(1) On September 28, 2011, the Board of Directors of the Overseas Private Investment Corporation (OPIC) approved $150 million in financing to expand the use of solar energy to power telecommunication towers in India, a project that will significantly reduce CO_2 emissions. The aim is to reduce carbon prints in the light of increasing environmental risks. Companies in India will use the OPIC loan to supplement cellular towers' diesel-powered generators with solar hybrid energy systems that use proprietary controllers to integrate and optimize usage through photovoltaic technology, electricity from the electric grid, a battery bank charged by solar panels, and existing generators.[42]

(2) On September 26, 2011, $20 million loan from the OPIC was granted for the completion of a 28-story office building in Pakistan, helping the country to attract multinational investors by meeting an urgent need for top-quality office space. The property will feature several green building characteristics, including a natural-gas fired cogeneration power plant which will increase its energy efficiency and mitigate negative

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Cited From: Bridges Weekly Trade News Digest • Volume 15 • Number 31 • 21st September 2011, China Restrictions On Rare Earths Prompt EU, US, Japan Gathering, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/114203/

[41] Ambassador Kirk Applauds The Senate For The Passage Of The U.S.-Rwanda Bilateral Investment Treaty, September 2011, Office Of The USTR, Available At: Http://Www.Ustr.Gov/About-Us/Press-Office/Blog/2011/September/Ambassador-Kirk-Applauds-Senate-Passage-Us-Rwanda-Bilatera

[42] Project Will Reduce CO2 Emissions, Create Jobs In U.S. And India, Sep 28, 2011, OPIC, Available At: Http://Www.Opic.Gov/News/Press-Releases/2009/Pr092811

environmental impacts. The Project has been sponsored by TPL Properties and they expect to complete construction of the Centre point office building in central Karachi in 2012.[43]

(3) On September 22, 2011, OPIC approved up to $310 million in financing for a project that would double the generating capacity of a geothermal power plant in Kenya, adding new electricity to the country's grid through the use of environmentally-friendly American technology, and creating both American and Kenyan jobs in the process. In so doing, the project will support the Kenyan Government's effort to develop country's extensive geothermal resources in order to reduce reliance on hydroelectric power generation and provide low-cost base load energy. Considered one of the most environmentally friendly power-generating technologies, geothermal power production emits negligible greenhouse gases and other air pollutants.[44]

(4) On July 1, 201, OPIC approved $500 million in financing to support lending to small businesses in Egypt and Jordan. The project was the result of a cooperative effort between OPIC and the USAID which will provide grant funding and technical assistance to the initiative. OPIC will guaranty loans by local banks to SMEs, microfinance institutions, non-banking financial institutions and other approved borrowers under a loan guaranty facility that will provide up to $250 million each for Egypt and Jordan. The facility will target the shortage of SME credit availability in Jordan and Egypt, removing an important impediment to private sector growth. In providing credit to Egyptian and Jordanian SMEs, the project is expected to catalyze growth, expand employment, and support the region's progress toward democratization. It also aims to transform how banks view lending to SMEs through technical assistance and training programs for both bank managers and SME management.[45]

(5) On September 27, 2011, USAID, together with six partners, announced a first-of-its-kind effort to invest $25 million in small and medium sized enterprises in East Africa. The African Agricultural Capital Fund (AACF) will deliver much needed growth capital to boost the productivity and profitability of Africa's undercapitalized agriculture sector. In order to attract investors to East Africa's fledgling but increasingly profitable agribusinesses, USAID's Development Credit Authority is guaranteeing 50% of an $8 million commercial loan from J.P. Morgan's Social Finance Unit to AACF. The fund is also supported by $17 million in equity investment from the Bill & Melinda Gates Foundation, the Gatsby Charitable Foundation, and the Rockefeller Foundation. The fund will also have access to $1.5 million in USAID-funded business development services, primarily funded under President Obama's flagship Feed the Future initiative, to improve investee companies' operations, competitiveness, and access to markets. [46]

(6) On September 21, 2011, the U.S. Agency for International Development, PepsiCo, Inc. (NYSE: PEP), the PepsiCo Foundation, and the United Nations World Food Programme (WFP) announced a public-private partnership to dramatically increase chickpea production and promote long-term nutritional and economic security in Ethiopia.[47]

(7) On September 16, 2011 at the 2011 Australia-United States Ministerial in San Francisco, U.S. Secretary of State Hillary Clinton and Australian Foreign Minister Kevin Rudd announced areas of development

[43] OPIC, Sep 26, 2011, Available At: Http://Www.Opic.Gov/News/Press-Releases/2009/Pr092611
[44] OPIC, Sep 22, 2011, Available At: Http://Www.Opic.Gov/News/Press-Releases/2009/Pr092211b
[45] Progress Toward Fulfilling Secretary Clinton's March Pledge; Cooperative Effort With US Agency For International Development, OPIC, July 1, 2011, Available At: Http://Www.Opic.Gov/News/Press-Releases/2009/Pr070111
[46] USAID Collaboration Results In African Agricultural Fund, USAID, Sep 27, 2011, Available At: Http://Www.Usaid.Gov/Press/Releases/2011/Pr110927.Html
[47] USAID, Pepsico, And World Food Programme Partner To Increase Food Production And Address Malnutrition In Ethiopia, USAID, Sep 21, 2011, Available At: Http://Www.Usaid.Gov/Press/Releases/2011/Pr110921.Html

cooperation between our two countries in several regions around the world, including South East Asia, Central Asia and Africa.

In Indonesia, the USAID would provide $10 million to support an Australian Agency for International Development (AusAID) program to supply piped water to low-income families in Indonesia. In Tanzania, USAID and AusAID have reached a delegated cooperation agreement to support Tanzanian government (GOT) health programs. AusAID will provide $5.2 million in health funding that USAID will direct and oversee addressing urgent gaps in GOT's measles program and critical shortfalls in GOT's stocks for family planning commodities. In Afghanistan, Australia will contribute AU$3 million towards two U.S. assistance programs in Uruzgan Province. The programs include supporting community dispute resolution and improving the delivery of essential services. Australia and the US would also provide joint support to help mitigate conflict in newly independent South Sudan.

These initiatives will be pursued under the strategic partnership on international development between Australia and the United States, which was established last year. The new cooperative package is also aimed at improving the effectiveness of development activities to make the best use possible of available resources to enhance the impact of the key goal of the U.S. Quadrennial Diplomacy and Development Review and Australia's Independent Review of Aid Effectiveness.[48]

(8) On July 1, 2011, in support of the Obama Administration's Energy and Climate Partnership of the Americas, USTDA committed $2,092,000 in funding for five clean energy feasibility studies in Mexico, Brazil, and Colombia. The studies will generate opportunities for U.S. providers of wind, solar, landfill gas, and waste-to-energy technologies and services.[49]

(9) On July 7, 2011, the USTDA continued its support of and relationship with the Ghana Airports Company Limited (GACL) by signing a $600,000 grant to develop the construction design specifications and tender documents for the refurbishment of the passenger terminal at Kotoka International Airport in Accra.[50]

(10) On June 30, 2011, USTDA awarded a $283,000 grant to Energy Allied Egypt (EAE), an Egyptian firm that focuses on development of energy projects in North and West Africa. The grant will support a feasibility study evaluation for 10 bio-digester units in six key locations throughout Egypt utilizing agricultural, animal and organic solid waste.[51]

(11) On August 12, 2011, USTDA awarded a $496,000 grant to the Ghana Interbank Payments and Settlement Systems Limited (GhIPPS) to help it determine the technical, operational, and business requirements to expand participation in Ghana's financial sector. The grant will fund technical assistance to evaluate the extension of branchless banking services, including electronic payment systems and other financial services, to underserved segments of Ghana's population.[52]

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[48] United States And Australia Cooperation In International Development, USAID, Sep 16, 2011, Available At: Http://Www.Usaid.Gov/Press/Releases/2011/Pr110916.Html

[49] USTDA Provides Over $2 Million To Support Clean Energy Projects In Latin America, USTDA, July 1, 2011, Press Release, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/LAC/Latinamericacleanenergyprojects_070111.Asp

[50] USTDA Supports Ghana's Efforts To Expand Airport Capacity At Kotaka International Airport, USTDA, Press Release, July 7, 2011, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/Subsaharanafrica/Ghana/Ghanakotakaairport_070711.Asp

[51] USTDA Supports Energy Sector Development In Egypt, USTDA, Press Release, July 7, 2011, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/Menaeurope/Egypt/Egyptbiodigesters_070711.Asp

[52] USTDA Supports Technology To Make Banking More Accessible In Ghana, USTDA, Press Release, Aug 12, 2011, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/Subsaharanafrica/Ghana/Ghanabranchlessbanking_081211.Asp

(12) On August 31, 2011, USTDA awarded a grant to the Comisión Ejecutiva Hidroeléctrica del Río Lempa (CEL), El Salvador's national energy utility, to advance solar energy development in El Salvador. The $267,000 grant will fund a feasibility study on a proposed 3 MW grid-connected solar photovoltaic power generation pilot project.[53]

(13) On September 15, 2011, USTDA awarded a grant of $593,954 to PT Kereta Api Indonesia (PT KAI), Indonesia's state owned rail company, to develop a new strategic plan and specific system recommendations for upgrading its rail signaling and telecommunications systems.[54]

(14) On September 16, 2011, USTDA announced three grants that would support the Turkish private sector's efforts to develop clean sources of energy and promote energy efficiency.[55]

(15) On September 19, 2011, USTDA awarded a $371,508 grant to the Ministry of Water and Irrigation of Kenya, acting through the Athi Water Services Board (AWSB), to assess options to modernize the Kariobangi wastewater treatment facility in Nairobi.[56]

Part III Trade Policy and Practice by Measure

III.A. Measures affecting imports

On September 30, 2011, the U.S. Customs and Border Protection (CBP) signed agreements with the EPA and the Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) to advance information-sharing between federal agencies and improve targeting of imports for health and safety violations. This comes as a move to strengthen the institutional base for better monitoring and inspection of imported products which violate any health and safety norms.

EPA and PHSMA are now part of CBP's Import Safety Commercial Targeting and Analysis Centre (CTAC), a multi-agency center for targeting commercial shipments that pose potential threats to health and safety. CTAC provides an avenue for agencies with import safety authority to streamline national operations and to share targeting expertise, tools and best practices. It also allows for a more targeted response to public safety threats, while simultaneously reducing duplicative examinations. The aim of this agreement is to partner with other federal agencies for better target inspections to identify illegal or non-

[53] USTDA Supports Solar Power In El Salvador, USTDA, Press Release, Aug 31, 2011, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/LAC/Elsalvador/Elsalvadorsolarpower_083111.Asp

[54] U.S. Grant Supports Safety And Transportation Infrastructure In Indonesia, USTDA, Press Release, Sep 15, 2011, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/Southasia/Indonesia/Indonesiarailsigning_091511.Asp

[55] USTDA Supports Development Of Turkey's Growing Energy Sector, USTDA, Sep 16, 2011, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/Menaeurope/Turkey/Turkeyenergygrants_091611.Asp

[56] USTDA Supports Nairobi's Efforts To Modernize Its Wastewater Infrastructure, USTDA, Press Release, Sep 23, 2011, Available At: Http://Www.Ustda.Gov/News/Pressreleases/2011/Subsaharanafrica/Kenya/Kenyaawsb_092311.Asp

compliant shipments, ensure health and safety standards are met, and level the playing field for companies that follow the law.[57]

The stringency of these norms could prove trade restrictive in some manner. The exact nature of such inspections, speculated to be against the WTO commitments could only be ascertained when some cases are reported or some imports are restricted. This remains an area of study for future review reports.

III.B. Technical Barriers to Trade

Two long-standing debated panel reports pertaining to TBT Agreement were passed by the WTO, during the review quarter.

According to a ruling issued on September 8, 201, the US' "dolphin safe" labelling practices for tuna products have been deemed to be WTO illegal. The panel ruled that the label, which is meant to inform consumers on the use of dolphin-friendly fishing practices were unnecessarily trade restrictive. However, the three-member panel disagreed with the complainant Mexico that the label also discriminated against Mexican tuna on the basis of nationality.

The dispute arose as Mexico's tuna fleet continue to use purse-seine nets, but is nonetheless compliant with international standards - most notably the Agreement on the International Dolphin Conservation Program (AIDCP). Mexico, the US, and others had negotiated AIDCP in response to an earlier international trade dispute between the countries over a similar issue. The international standard follows a "non-injury" rather than a "finishing-method" approach, meaning that tuna caught with purse-seine nets can qualify for dolphin-safe labels, provided that independent veterinarians certify that no dolphins were injured.

The panel accepted the US argument that the labelling practice was non-discriminatory, concluding that the measure did not favour US tuna products or those of other origins over those from Mexico. The panel also backed the US claim that the AIDCP international label standard did not constitute an effective and appropriate means of fulfilling legitimate US objectives. This was because, in the opinion of the panel, the standard failed to guarantee the level of dolphin protection pursued by the US. The AIDCP standard only informs consumers whether dolphins were killed or seriously injured by the fishing method, but fails to inform consumers of other adverse impacts caused by the fishing methods, the panel concluded.

Nevertheless, the panel found that the US dolphin-safe labelling provisions were more trade-restrictive than was necessary for informing consumers and protecting animal health, and were thus inconsistent with the WTO's Agreement on Technical Barriers to Trade (TBT). The TBT Agreement requires that technical regulations "*are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary obstacles to trade.*" According to the panel, the "dolphin-safe" label only "partly" fulfilled the objective of dolphin protection, as it did not address the observed mortality caused by other tuna fishing methods outside the eastern Pacific Ocean.

During the review quarter, along with the tuna dispute, another ruling of the panel was widely discussed. It pertained to the WTO violation of US trade ban for flavoured cigarettes, including clove cigarettes which are exclusively produced in Indonesia. The ban had been introduced as part of a legislation aiming

[57] Environmental Protection Agency And Department Of Transportation Sign Agreements To Join CBP Import Safety Center, September 30, 2011, Customs And Border Protection, Available At: http://www.Cbp.Gov/Xp/Cgov/Newsroom/News_Releases/National/09302011_2.Xml

to prevent minors from smoking, posing the argument that minors often get introduced to tobacco through such flavoured products. Menthol cigarettes, however, which are equally dangerous but are produced exclusively in the US, were exempted from the ban.

Both the panel reports, Tuna and Clove Cigarettes were subject matter of heavy criticism by consumer advocacy, environmentalist, and public health groups in the US. Online discussions in relevant forums and media responses suggest that these two defeats could hurt the US public's perception of the WTO even more.[58]

III.C. Sanitary and phytosanitary measures

(1) On August 15, 2011, the U.S. Food and Drug Administration provided draft guidance clarifying how benefit-risk determinations are made during premarket review of certain medical devices. The guidance focused on premarket approval applications (PMAs) and the regulatory pathway for high-risk medical devices. The recommendations made in the guidance are intended to improve the predictability, consistency and transparency of the premarket review process for applicable devices, and should help manufacturers navigate the approval process more easily.

The importance of this can be seen in the light that, during the review of PMAs, the FDA uses safety data and effectiveness data. The safety data addresses risk, and the manufacturer's ability to mitigate that risk. The effectiveness data considers benefits, as well as other information, to determine whether the probable benefits outweigh the probable risks associated with use of the device. Safety and effectiveness data alone may not provide a complete picture of the benefits and risks. FDA medical device reviewers objectively look at other factors such as the severity of the disease the product diagnoses or treats and whether or not alternative tests or treatments are available. Device reviewers may also consider whether the device is new or a first-of-a-kind technology as part of the benefit-risk determination, particularly if the device treats a disease that has no other treatment.[59]

These draft guidelines on risk assessment policies should be borne in mind by the concerned exporters as it amounts to a change in risk assessment regime under Article 5 of the SPS Agreement.

(2) On August 29, 2011, the EPA announced that it planned to complete the non-cancer portion of *EPA's Reanalysis of Key Issues Related to Dioxin Toxicity and Response to NAS Comments,* and post the final non-cancer assessment to the Integrated Risk Information System (IRIS) by the end of January 2012. After completing the non-cancer portion, EPA will finalize the cancer portion of the dioxin reanalysis as quickly as possible.

The decision to split the dioxin assessment into two portions, one being the cancer assessment and the other being the non-cancer assessment, follows the release by the Science Advisory Board (SAB) of its final review report of *EPA's Reanalysis of Key Issues Related to Dioxin Toxicity and Response to NAS Comments* on August 26, 2011. This reanalysis report responded to the recommendations and comments included in the National Academy of Sciences' (NAS) 2006 review of EPA's 2003 draft dioxin assessment.

The SAB report indicates that EPA selected the most appropriate scientific studies to support the non-

[58] ICTSD Reporting; "WTO Panel Rules US Tuna Labels Too Restrictive," ASSOCIATED PRESS, 16 September 2011, Cited From: Http://Ictsd.Org/I/News/Bridgesweekly/114218/

[59] FDA Proposes Guidelines That Clarify Benefit-Risk Determinations For Medical Devices, US Food And Drug Administration, Press Release, Aug 15, 2011, Available At: Http://Www.Fda.Gov/Newsevents/Newsroom/Pressannouncements/Ucm267995.Htm

cancer health assessment and the oral reference dose derived in the draft assessment. The SAB also commended EPA for a clear and logical reanalysis document that responded to many of the recommendations offered previously by the NAS. Specifically, the SAB acknowledged that the process the agency used to identify, review and evaluate the scientific literature was both comprehensive and rigorous, and the SAB report noted that "*the criteria for study selection have been clearly articulated, well justified, and applied in a scientifically sound manner.*" Dioxins are toxic chemicals that share a similar chemical structure and act through a similar mechanism. While dioxin levels in the environment have been declining since the early seventies, dioxins remain a concern because they will continue to enter the food chain through releases from soils and sediments, and they have been the subject of a number of federal and state regulations and cleanup actions.[60]

The progress of the finalized policy by the EPA would be monitored in the next report and other changes in the SPS regime would also be reported.

III.D. Trade Remedies/Trade Contingency Measures

Anti-dumping

Preliminary phase investigation

Investigation number	**Concerned country**	**Matter involved**	**Status of proceedings**
[Investigation No. 731–TA–1189 (Preliminary)]	S. Korea	Commencement of investigations by reason of imports from Korea of large power transformers, provided for in subheading 8504.23.00 of the Harmonized Tariff Schedule of the United State, i.e. large power transformers	The investigation became effective from July 14, 2011. The U.S. Department of Commerce will continue to conduct its antidumping investigation on imports of these products from Korea, with its preliminary antidumping duty determination due on or about December 21, 2011.

Sunset reviews

[60] EPA Announces Schedule For Dioxin Assessment , Release Date: 08/29/2011, EPA Press Release, Available At: Http://Yosemite.Epa.Gov/Opa/Admpress.Nsf/1e5ab1124055f3b28525781f0042ed40/Dae0812e5b4ef50e852578fb0057355b!Opendocument

Institution of sunset reviews

Investigation details	Concerned countries	Matter involved	Status of proceedings
731-TA-860 (Second Review)	Japan	Sunset review concerning the antidumping duty order on tin- and chromium-coated steel sheet from Japan	On September 6, 2011, USITC voted to conduct a full five- year ("sunset") review concerning the antidumping duty order on tin- and chromium-coated steel sheet from Japan. As a result of this vote, the Commission will conduct a full review to determine whether revocation of this order would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.
731-TA-461 (Third Review)	Japan	Vote to expedite its five-year ("sunset") review concerning the antidumping duty order on gray portland cement and cement clinker from Japan	On August 5, 2011, USITC voted for the expedition of the said sunset review. The Commission will conduct an expedited review to determine whether revocation of this order would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time
731-TA-1091 (Review)	China	Vote to expedite its five-year ("sunset") review concerning the antidumping duty order on artists' canvas from China	On August 5, 2011, as a result of the said vote, result of this vote, the Commission will conduct an expedited review to determine whether revocation of this order would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. On August 5, 2011, as a result of the said vote, result of this vote, the Commission will conduct an expedited review to determine whether revocation of this order would be likely to le to continuation or recurrence of material injury within a reasonably foreseeable time

Results of sunset reviews

Investigation details	Concerned countries	Matter involved	Status of proceedings
701-TA-319 and 731-TA-538 and 561	China and **India**	The five-year (sunset) reviews concerning *Sulfanilic Acid from China*	On September 14, 2011, USITC determined that revoking the existing countervailing duty orders on sulfanilic acid from India and

(Third Review)		*and India* were instituted on April 1, 2011	the existing antidumping duty orders on that product from China and India would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's affirmative determinations, the existing orders on imports of these products from China and India will remain in place
731-TA-847 and 849 (Second Review)	Japan and Romania	The five-year (sunset) reviews concerning *Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Romania* were instituted on April 1, 2011.	On September 9, 2011, determined that revoking the existing antidumping duties on carbon and alloy seamless standard, line, and pressure pipe from Japan and Romania would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's affirmative determinations, the existing antidumping duty orders on imports of these products from Japan and Romania will remain in place.
731-TA-825-826 (Second Review)	Korea and Taiwan	The five-year (sunset) reviews concerning *Polyester Staple Fiber from Korea and Taiwan* were instituted on March 1, 2011.	On August 30, 2011, USITC determined that revoking the existing antidumping duty orders on polyester staple fiber from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's determination, the existing orders on imports of this product from Korea and Taiwan will remain in place
731-TA-718 (Third Review)	China	The five-year (sunset) review concerning *Glycine from China* was instituted on October 1, 2010.	On August 15, 2011, USITC determined that revoking the existing antidumping duty order on glycine from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's affirmative determination, the existing order on imports of this product from China will remain in place.
731-TA-459 (Third Review)	Korea	The five-year (sunset) review concerning *Polyethylene Terephthalate (PET) Film from Korea* was	On August 15, 2011, USITC determined that revoking the existing antidumping duty order on polyethylene terephthalate (PET) film from Korea would not be likely to lead to continuation or recurrence of material

		instituted on September 1, 2010.	injury within a reasonably foreseeable time. As a result of the Commission's negative determination, the existing order on imports of this product from Korea will be revoked
731-TA-457 A-D (Third Review)	China	The five-year (sunset) reviews concerning *Heavy Forged Hand Tools from China* were instituted on January 3, 2011.	On July 27, 2011, USITC determined that revoking the existing antidumping duty orders on heavy forged hand tools from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's affirmative determinations, the existing orders on imports of these products from China will remain in place.
731-TA-856 (Second Review)	Russia	The five-year (sunset) review concerning *Ammonium Nitrate from Russia* was instituted on March 1, 2011	On July 20, 2011, USITC determined that revoking the existing antidumping duty order on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's affirmative determination, the existing order on imports of ammonium nitrate from Russia will remain in place
701-TA-379 and 731-TA-788 & 790-793 (Second Review)	Belgium, Italy, Korea, South Africa, And Taiwan	The five-year (sunset) review concerning *Stainless Steel Plate from Belgium, Italy, Korea, South Africa, and Taiwan* was instituted on June 1, 2010.	On July 20, 2011, USITC determined that revoking the existing countervailing duty order on stainless steel plate from South Africa and the existing antidumping duty orders on stainless steel plate from Belgium, Korea, South Africa, and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The USITC also determined that revoking the existing antidumping duty order on stainless steel plate from Italy would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's affirmative determinations, the existing orders on import of these products from Belgium, Korea, South Africa, and Taiwan will remain in place. As a result of the Commission's negative determination, the existing order
701-TA-382 and 731-TA-798-803 (Second	Germany, Italy, Japan, Korea, Mexico,	The five-year (sunset) reviews concerning *Stainless Steel Sheet and Strip from Germany, Italy,*	

Review)	And Taiwan	*Japan, Korea, Mexico, and Taiwan* were instituted on June 1, 2010.	on imports of these products from Italy will be terminated On July 8, 2011, USITC determined that revoking the existing countervailing duty order on stainless steel sheet and strip from Korea and the existing antidumping duty orders on stainless steel sheet and strip from Japan, Korea, and Taiwan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. It further determined that revoking the existing antidumping duty orders on imports of these products from Germany, Italy, and Mexico would not be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. As a result of the Commission's affirmative determinations, the existing orders on imports of these products from Japan, Korea, and Taiwan will remain in place. The existing orders on imports of these products from Germany, Italy, and Mexico will be revoked

Issues of zeroing in the United States

The WTO's Dispute Settlement Body, in its June 17, 2011 meeting, adopted a panel report on the US' controversial application of "zeroing" in anti-dumping administrative reviews (DS382). The case concerned anti-dumping duties imposed against Brazilian orange juice. The move came as a surprise to many observers that had expected Washington to appeal the decision, which found the US to be in violation of WTO law. This could indicate that Washington is ready to implement the zeroing reforms proposed by the US Department of Commerce earlier this year.

While Brazil insisted that the ruling did not go far enough, the US criticized the panel for following previous Appellate Body rulings in making its decision. Despite these reservations, both members agreed to have the report adopted rather than sending it to appeal. It is the first time that Washington has accepted a ruling condemning zeroing in reviews.

Despite a large number of WTO rulings against the practice, Washington has yet to bring its anti-dumping laws into compliance with the WTO Treaty provisions. Although the law on zeroing is settled, the panel noted, "*There exists no single answer. The objective lack of clarity on this issue… lends legitimacy to both parties' positions.*" In the end, however, the panel decided to side with Brazil. .

The US has announced that they will implement the ruling within nine months. However, a spokesperson for the US Trade Representative's stated that "the United States considers that the Uruguay

Round Antidumping Agreement permitted zeroing, and the US will work hard to reaffirm the ability to use this practice through the Doha Round negotiations,”.[61]

Countervailing Duties (CVD measures)

Investigation details	Concerned countries	Matter involved	Status of proceedings
	China	The products covered by this investigation is galvanized steel wire which is a cold-drawn carbon quality steel product in coils, of solid, circular cross section with an actual diameter of 0.5842 mm (0.0230 inch) or more, plated or coated with zinc (whether by hot-dipping or electroplating	On August 30, 2011, the Department of Commerce (Commerce) announced its affirmative preliminary determination in the countervailing duty (CVD) investigation of imports of galvanized steel wire (galvanized wire) from the People's Republic of China (China). Commerce preliminarily determined that Chinese producers/exporters have received countervailable subsidies ranging from 21.59 to 253.07 percent *ad valorem*. As a result of this preliminary determination, Commerce will instruct U.S. Customs and Border Protection to collect a cash deposit or bond based on these preliminary rates. Commerce is currently scheduled to make its final determination in January 2012.
	Korea	The products covered by this investigation are all bottom mount combination refrigerator-freezers and certain assemblies thereof from Korea	On August 30, 2011, the Department of Commerce (Commerce) announced its negative preliminary determination in the countervailing duty (CVD) investigation of imports of bottom mount combination refrigerator-freezers (bottom mount refrigerators) from the Republic of Korea (Korea). Commerce preliminarily determined that Korean producers/exporters have not received countervailable subsidies. As a result of this preliminary determination, Commerce will not instruct U.S. Customs and Border

[61] Bridges Weekly Trade News Digest , Volume 15, Number 25, 6th July 2011, WTO Disputes Roundup: Possible Breakthroughs In Beef And Zeroing Cases, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/110037/

			Protection to collect a cash deposit or bond based on these preliminary rates. Commerce is currently scheduled to make its final determination in January 2012.

Part IV Measures affecting exports

IV. A. Export promotion activities

(1) On September 27, 2011 the U.S. Small Business Administration announced of providing $30 million in grants to states, territories, and the District of Columbia, to help increase exporting by small businesses during the next 12 months. The grants were authorized by the Small Business Jobs Act of 2010, under the State Trade and Export Promotion Program (STEP).

The STEP program, launched in March, aligns with President Obama's National Export Initiative. The funding will support participation in foreign trade missions, foreign market sales trips, subscriptions to services provided by the Department of Commerce, website translations fees, design of international marketing media, trade show exhibitions, participation in training workshops, and other critical export initiatives. Small businesses that want to receive assistance under the STEP program should contact the organizations serving the states in which they are located.[62]

(3) On July 19, 2011, Under Secretary of Commerce for International Trade and American Association of Port Authorities (AAPA) President alongwith Chief Executive Officer announced a new partnership to support President Obama's goal of doubling exports by 2014. This new partnership with America's seaports aims at expanding U.S. exports through increased education and outreach to U.S. businesses, creating a win/win situation for everyone. The partnership will assist U.S. seaports leverage federal and local resources to help new-to-export small and medium-sized firms to achieve export sales. The AAPA and the Department of Commerce's International Trade Administration will help interested ports develop and host industry-led workshops, seminars, and other events that provide exporters with a basic knowledge of export requirements.[63]

Part V- Measures affecting production and trade

[62] SBA Grants $30 Million To States For Trade, Export Promotion, Release Date: Tuesday, September 27, 2011, Small Business Administration, Available At: Http://Www.Sba.Gov/About-Sba-Services/7367/25581

[63] U.S. Seaports Agree To New Partnership To Increase Exports, ITA, July 19, 2011, Available At: Http://Trade.Gov/Press/Press-Releases/2011/International-Trade-Administration-Us-Seaports-Agree-To-New-Partnership-To-Increase-Exports-071911.Asp

V.A. Subsidies

According to certain new figures revealed, domestic food aid payments in the US have doubled between 2002 and 2009. New figures show pushing total farm subsidy levels to a record high of US$114 billion. The data, from Washington's official report to the WTO on 2009 spending levels, classes nine-tenths of recent US farm support as green box payments.

Spending on domestic food aid has grown in recent years, analysts say, as the economic downturn has pushed thousands more US citizens into poverty. However, wrangling over budget cuts in Washington has raised questions over the future of these programs - which are amongst the least controversial of US domestic support payments.

Green box payments are exempt from reduction commitments. At US$78 billion, domestic food aid accounts for three-quarters of all US green box spending, the figures indicate, with food stamps provided under the Supplemental Nutrition Assistance Program accounting for 70 percent of these payments.

Other programmes for vulnerable groups, such as the US$15 billion Child Nutrition Program, fall in the same category. The latest figures also indicate that the government spent around US$6 billion on income support payments that are 'decoupled' from production, and around US$4 billion on environmental programmes.

Meanwhile, trade-distorting farm subsidies - classed in the WTO's amber box - fell to an all-time low of just over US$4 billion in 2009, the data shows. However, the US also reported another US$7 billion of trade-distorting support under the global trade body's de minimis rules: these payments are exempt from counting towards WTO spending limits because they amount to less than five percent of the value of farm output. Trade-distorting payments were concentrated on just a few products, according to the US government, with dairy (US$3 billion) and sugar (US$1.2 billion) benefiting the most.

The US continued not to report any spending on production-limiting blue box programmes, which, although trade-distorting, are exempt from an upper ceiling under current WTO rules. Total trade-distorting support in 2009 was therefore around US$11.5 billion, the report shows. This figure is significantly lower than the US$14.5 billion ceiling that US officials have proposed in the Doha Round of trade talks as a cap on 'overall trade-distorting support,' or OTDS - the sum of amber, blue and de minimis domestic support. However, because some US subsidies increase when prices fall, and decrease again when they rise, support levels can fluctuate from year to year. US OTDS was as high as US$19 billion in 2005. Trade sources also noted that new rules proposed under the Doha round of trade talks would limit the amount of support that can be concentrated on any given product, and halve the current ceiling for 'de minimis' payments.[64]

V.B. Other developments during the review quarter

(1) On September 30, 2011, the board of directors of the Export-Import Bank of the United States (Ex-Im Bank) approved $3.4 billion in financing to support U.S. exports from a wide variety of companies in

[64] Bridges Weekly Trade News Digest • Volume 15 • Number 29 • 7th September 2011, Farm Subsidies: Ballooning US Food Aid Pushes Total Support To New High, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/113559/

the aerospace, oil and gas, locomotives, solar-energy and other industries. The Bank estimates that this financing will support more than 20,000 jobs in the United States.[65]

The details of the benefitted sectors include:

Details of recipient	Nature of benefits conferred
Pemex (Various U.S. Exporters)	$1 billion in authorizations for Petróleos Mexicanos (Pemex), Mexico's national oil-and-gas company. The authorizations will support sales of U.S. equipment and services to Pemex for its onshore and offshore projects. The authorizations include a $200 million small-business facility to finance Pemex's purchases from U.S. small businesses across the country
Air India (The Boeing Company)	$1.3 billion in loan guarantees supporting Boeing commercial aircraft sales to Air India. In addition to these final commitments, the board also approved a $2.1 billion preliminary commitment to support future deliveries of Boeing aircraft to Air India. Upon approval of the conversion of the preliminary commitment into a final commitment, the transactions in total will support the export of 30 Boeing aircraft to the state-owned, national flag carrier of India.
Kazakhstan Temir Zholy (GE)	$425 million direct loan to support the sale of 196 GE Evolution Series locomotives and locomotive kits manufactured by GE Transportation Systems in Erie, Pa., to JSC Lokomotiv, a wholly owned subsidiary of Kazakhstan Temir Zholy (KTZ), the state-owned, national railway of Kazakhstan. The contract is GE's largest to date with KTZ since it began selling to the railway in 2003 and is the first contract supporting locomotive kits for new GE diesel locomotives. The sale will directly support 530 jobs at GE's Erie and Grove City, Pa., facilities with additional jobs at many of GE's U.S. suppliers, bringing the total estimated number of U.S. jobs supported to approximately 2,900.
Tatith Solar, India (SolarWorld Industries America Inc.)	$19 million direct loan to support the sales of solar photovoltaic panels from Solar World Industries America Inc. in Hillsboro, Ore., and construction services from various U.S. suppliers to Tatith Energies Gujarat Private Ltd. The panels will be used in a five-megawatt (MW) solar photovoltaic crystalline power project in the state of Gujarat. The transaction is the sixth solar-energy project that Ex-Im Bank has supported in India in FY 2011.
Supply-Chain Financing	$666.4 million working capital guarantee to support supply-chain financing by Citibank N.A., in New York, N.Y., to Boeing's small-business suppliers. Ex-Im Bank's guarantee will support a $740.5 million facility under the Bank's Supply Chain Finance Guarantee to finance accounts receivable due from the Boeing Company to its U.S.-based suppliers for a term of 12 months. The facility will be administered under Citibank's existing supplier finance program and will extend financing support to Boeing's nationwide network of small-business U.S. suppliers.

Providing such benefits by way of direct transfer of funds to certain specific enterprises could constitute a subsidy under Article 2 of the Subsidies and Countervailing Agreement.

[65] Ex-Im Bank Authorizes $3.4 Billion In Financing At Fiscal Year-End Supporting Over 20,000 U.S. Jobs, Sep 30, 2011, EXIM Bank Press Release, Available At: Http://Www.Exim.Gov/Pressrelease.Cfm/5BFB12B0-CCF4-B6E4-0546FC19AA3BE72D/

(2) On September 20, 2011, Acting U.S. Commerce Secretary announced $1.9 million in financial assistance to support projects that increase U.S. exports, create jobs and strengthen American global competitiveness. The funds would be awarded to five non-profit industry organizations and are expected to generate $1.96 billion in U.S. exports in the next three years, ranging from attracting foreign students and tourists to promoting clean truck technology and medical technology exports.

The five recipients of the 2011 Market Development Cooperator Program awards are:

- California ETEC, Irvine, Calif. – $388,425
- CALSTART, Pasadena, Calif. – $300,271
- NEMA – Medical Imaging and Technology Alliance, Rosslyn, Va. – $207,140
- Specialty Equipment Market Association, Diamond Bar, Calif. – $500,000
- U.S. Travel Association, Washington, D.C. – $491,681.[66]

(3) In the WTO's meeting of the regular Committee on Agriculture, on September 29-30 where non-negotiating agricultural trade issues were discussed, several issues pertaining to the issues of farm subsidies in US was raised. The members raised questions as to why the revised US notification differed from the original and questions were raised on US crop insurance, along with increases in both food stamp spending and support to products such as cotton and corn.

In the same meeting, questions were also raised by US and other WTO members on India's definition of 'resource poor, low income' producers, the choice of currency used to notify support as India, in its most recent notification, used US dollars, rather than the Indian rupees in which the country's original farm subsidy commitments had been made. Members also asked India for more information about the functioning of buffer stocks and crop insurance schemes, and support provided for producers of particular crops such as coffee or cotton.[67] The progress of the next meeting which is scheduled for November 17-18, shall be recorded in the 3rd review quarter report.

(4) According to a September 23, 2011, report by Reuters, a reduction in the federal mandate on fuel ethanol is speculated in the US. The proposed legislation, which reports say was confirmed by an unnamed congressional staff worker, would supposedly lower the share of corn set aside for the ethanol-blending industry. Domestic dairy and livestock producers have complained that artificially increasing the demand for blended ethanol drives up corn prices across the board.

"This legislation would provide a mechanism that when the [US Department of Agriculture] reports that US corn supplies are tight, based upon corn stocks-to-expected-use, there would be a reduction made to the RFS," a spokeswoman for Goodlatte explained, according to the Dow Jones Newswires. The MF Global consulting firm has found that the legislation would "reduce the ethanol mandate by 25 percent when the corn stocks-to-use ratio is projected to be less than 7 percent and reduce it by 50 percent when the ratio would be 5 percent or less."

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[66] Commerce Department Awards $1.9 Million To Stimulate Exports, Create Jobs, Sep 20, 2011, USDOC Available At: Http://Www.Commerce.Gov/News/Press-Releases/2011/09/20/Commerce-Department-Awards-19-Million-Stimulate-Exports-Create-Jobs

[67] Bridges Weekly Trade News Digest • Volume 15 • Number 33 • 5th October 2011, US, India, Japan Farm Subsidies Face WTO Ag Committee Scrutiny, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/114947/

Previously, efforts were also made to change legislation surrounding ethanol blending. On July 7 2011, the Senate voted to cut the 45 cent a gallon ethanol tax break and the 54 cent a gallon ethanol import tariff. [68]

(5) The US fiscal deficit is pushing legislators to consider cuts in areas including agriculture subsidies. In recognition of changes in the amount of money available to agriculture, the National Cotton Council - the US lobbying group for the cotton industry recently conceded that direct payments and counter cyclical payments may be cut and is now seeking a programme of revenue based crop insurance.

The summer debt limit debate that riled Washington ended with a compromise as on 8 September, 2011, a "Super Committee" of six US congressional Democrats and six Republicans agreed to discuss on budget cuts or face automatic cuts across the board, with some exceptions. In agricultural spending, food stamps and conservation are expected to exempted from automatic cuts. The National Cotton Council statement comes at time of major debate within the farm policy community.

Therefore Farm policy reform, or least a debate on the subject, seems to be underway in Washington. Still, some believe that Congress will be unable to enact broad changes for fiscal year 2012 mainly due to time constraints, and will instead continue the policies of the previous fiscal year.[69] The future of policy actions in this regard shall be tracked in the future reports.

V.C. Environment

In furtherance of EPA's agenda to ensure health protections for the American people, and strengthen standards of the Clean Air Act, the administration introduced more standards and safeguards for clean air in. Aiming at a significant reduction of sulphur dioxide and nitrogen oxide air pollution across state borders, a long-overdue proposal to finally cut mercury pollution from power plants and the first-ever carbon pollution standards for cars and trucks was introduced in the US. The plan ahead is to revisit the ozone standard, in compliance with the Clean Air Act.[70]

The implementation of this strict standard shall be monitored for any non-compliance to the WTO norms.

PART VI TRADE POLICY BY SECTOR

VI.A. Agriculture

[68] ICTSD Reporting. "Ethanol Critics Target Mandates As Subsidy Ends," Desmoines Register, 10 September 2011; "Ethanol Industry Sees Threat To Fuel Mandate In Proposed Bill," Dow Jones Newswires, 26 September 2011; "Ethanol Industry Is Unruffled By Senate Vote Against Tax Breaks," New York Times, 17 June 2011; "House Bill Would Lower Mandate To Use Ethanol," Reuters, 23 September 2011, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/114550/

[69] Bridges Weekly Trade News Digest • Volume 15 • Number 29 • 7th September 2011. Contentious US Budget Debate Spurs Cotton Lobby To Act, Available At: Http://Ictsd.Org/I/News/Bridgesweekly/113556/

[70] Statement By EPA Administrator Lisa P. Jackson On The Ozone National Ambient Air Quality Standards, April 2nd, 2001, Press Release, EPA, Available At: Http://Yosemite.Epa.Gov/Opa/Admpress.Nsf/1e5ab1124055f3b28525781f0042ed40/E41fbc47e7ff4f13852578ff00552bf8!Opendocument

The CRS report on US trade policy on agriculture published on July 29, 2011, highlights the key progress of legislations in the agricultural sector and analyses certain statistical variables on trade impact of agriculture. A brief summary of the report is presented as follows:

Overview of agriculture sector: Key legislation and trade data

In the US, the Food, Conservation, and Energy Act of 2008, was enacted into law in June 2008 which would govern most federal farm and food policies through 2012. The 2008 farm bill provides price and income support to U.S. agricultural producers through 2012. In addition, the farm bill authorizes programs for conservation, rural development, nutrition (domestic food assistance), trade, and food aid administered by USDA. Budgetary outlays for all U.S. agricultural programs were $129.5 billion in FY2010.[71]

By one widely used measure, the producer support estimate (PSE)[72] calculated by the OECD, the United States provided an estimated $30.6 billion in agricultural support to producers in 2009. As a percent of gross farm receipts, the PSE for the United States is 10% in 2009, the third-lowest among OECD countries OECD attributes an increase of 2% (over 2008) in the PSE expected for the United States for 2009 to an increase in market price support for dairy.
Over a longer period, the trend in producer support in the United States has been downward, dropping from a PSE of 22% in 1986-1988 to 10% in 2009. Among U.S. commodities, sugar is the most highly subsidized product in the United States, with a provisional single commodity transfer estimated at 21% of the gross value of sugar production in 2009.

With agricultural exports totaling $137 billion in FY2011, the United States is the world's largest exporter of agricultural products. The United States applies tariffs and tariff quotas[73] to products entering the United States from abroad. According to the World Trade Organization (WTO), the United States average applied tariff for agricultural products is 8.9%, which is slightly above the average applied U.S. tariff for non-agricultural products (4%), but relatively low compared to other WTO member countries.[74] About 170 tariff lines are subject to tariff quotas, including beef, dairy products, and sugar. The average in-quota tariff was 9.1% in 2007, while the out-of-quota was 42%.[75]

Under the WTO Agreement on Agriculture, the United States made export subsidy reduction commitments for 13 commodities.[76] The 2008 farm bill repealed authority for the Export Enhancement Program (EEP), which was used to fund subsidies for those products, with the exception of dairy products. Export subsidies, in the form of cash bonuses, can be provided to exporters of dairy products under the Dairy Export Incentive Program (DEIP), which was reauthorized in the 2008 farm bill through 2012. Prior to its repeal, no expenditures were made for EEP from FY2002. Spurred by declining prices for dairy products in 2008-2009, USDA announced in May 2009 DEIP allocations for nonfat dry milk, butter fat, and cheeses. DEIP bonuses of $19 million were awarded in FY2009. In FY2010, DEIP bonuses of $2 million were awarded.

[71] U.S. Department Of Agriculture, At Http://Www.Obpa.Usda.Gov/Budsum/FY12budsum.Pdf.
[72] PSEs measure assistance to producers in terms of the value of Monetary Transfers Generated by Agricultural Policy.
[73] A Tariff Quota Is Defined By WTO As A Trade Measure Applied At The Border Where Quantities Inside A Quota Are Charged Lower Import Duty Rates Than Those Outside (Which Can Be High).
[74] WTO, Trade Policy Review: United States 20108, P. 90, Available At Http://Www.Wto.Org/English/Tratop_E/Tpr_E/Tp_Rep_E.Htm#Bycountry.
[75] Ibid At P. 81
[76] Wheat And Wheat Flour, Coarse Grains, Rice, Vegetable Oils, Butter And Butter Oil, Skim Milk Powder, Cheese, Other Milk Products, Bovine Meat, Pigmeat, Poultry Meat, Live Dairy Cattle, And Eggs

A federally chartered public corporation operated by USDA, the Commodity Credit Corporation (CCC), makes credit guarantees available to private financial institutions who finance the purchase of U.S. agricultural exports. Under the GSM-102, the CCC guarantees repayment of credit made available to finance U.S. agricultural exports on credit terms of up to three years. Exporters tallied $3.1 billion of agricultural exports under the GSM-102 program. The CCC also operates the Facilities Guarantee Program (FGP), which guarantees credit to U.S. banks that finance export sales of U.S. goods and services that are used to improve agricultural export related facilities in emerging markets (storage, processing, and handling facilities). Export market development programs, the Market Access Program (MAP), and the Foreign Market Development Program (FMDP) assist producer groups, associations, and firms with promotional and other activities.

Food Aid

The report highlights that the United States is the world's leading supplier of food aid. It provides more than half of the global total. The United States provides food aid mainly through P.L. 480, also known as the Food for Peace Program. Wheat and wheat flour are the main commodities provided as food aid, but rice and vegetable oils are also important in P.L. 480 programs. Higher-value products are made available in special feeding programs. Responsibility for implementing food aid programs is shared by USDA and the U.S. Agency for International Development (AID).

P.L. 480 food aid is provided on a grant basis through Title II of the Food for Peace Act of 2008, the successor legislation of the Agricultural Trade and Development Assistance Act of 1954 (P.L. 480). Two other food aid programs are conducted under Section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985. The former provides surplus CCC inventories, if available, as donations; the latter provides concessional credit terms or commodity donations to support emerging democracies or countries making free market economic reforms. A recently enacted food aid program, the McGovern-Dole School Food for Education Program, finances school feeding and child nutrition projects in poor countries.[77]

Developments during the quarter

Tariff and quotas- On August 2, 2011, the Office of the Secretary of the Department of Agriculture provided a notice of an increase in the fiscal year (FY) 2011 specialty sugar tariff-rate quota (TRQ) of 9,072 metric tons raw value (MTRV). This was made effective from August 2, 2011. The Secretary also announced the establishment of the FY 2012 in-quota aggregate quantity of the raw, as well as, refined and specialty sugar TRQ as required under the U.S. WTO commitments. The FY 2012 raw cane sugar TRQ is established at 1,117,195 MTRV that may be entered under subheading 1701.11.10 of the U.S. Harmonized Tariff Schedule (HTS) during FY 2012 (October 1, 2011– September 30, 2012). In addition, the inquota aggregate quantity of the refined and specialty sugar TRQ is established at 112,718 MTRV for certain sugars, syrups, and molasses (collectively referred to as refined sugar) that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS during FY 2012. The Secretary also announced that sugar entering the United States under the FY 2012 raw sugar import TRQ will be permitted to enter U.S. Customs territory beginning September 1, 2011, a month earlier than the usual first entry date of October 1. This latter action is in response to increased tightness in the U.S. raw sugar market. Additional U.S. Note 5(a) (iv) of Chapter 17 of the HTS authorizes the Secretary of

[77] U.S. Agricultural Trade: Trends, Composition, Direction, And Policy Charles E. Hanrahan, Carol Canada, Beverly A. Banks, CRS, July 29, 2011

Agriculture to permit sugar allocated under a given quota period to be entered in a previous or subsequent quota year period.[78]

Financial support to farmers- On September 30, 2011, Agriculture Deputy Secretary Kathleen Merrigan announced that the U.S. Department of Agriculture (USDA) has awarded 36 grants totaling $18 million to organizations that will provide training and assistance to beginning farmers and ranchers to help them run successful and sustainable farms.[79]

Focus on renewable energy - (1) On September, 28, 2011, Agriculture Secretary announced five major agricultural research projects aimed at developing regional, renewable energy markets, generating rural jobs, and decreasing America's dependence on foreign oil. Altogether, the five-year program will deliver more than $136 million in research and development grants to public and private sector partners in 22 states. University partners from the states of Washington, Louisiana, Tennessee, and Iowa will lead the projects, which focus in part on developing aviation biofuels from tall grasses, crop residues and forest resources. Apart from this initiative, in furtherance of the national agenda to secure bio-fuels energy, USDA is also investing in innovative technologies, supporting landowners and businesses taking risks to pursue new energy opportunities, and supporting commercialization of biofuels.[80]

(2) On Aug. 16, 2011, President Obama announced that the U.S. Departments of Agriculture, Energy and Navy will invest up to $510 million during the next three years in partnership with the private sector to produce advanced drop-in aviation and marine biofuels to power military and commercial transportation. The initiative responds to a directive from President Obama issued in March as part of his *Blueprint for A Secure Energy Future*, the Administration's framework for reducing dependence on foreign oil. The biofuels initiative is being steered by the White House Biofuels Interagency Work Group and Rural Council, both of which are enabling greater cross-agency collaboration to strengthen rural America.[81]

(3) On Sept. 16, 2011, Agriculture Secretary Tom Vilsack announced loans and grants for more than 500 agricultural producers and rural small businesses across the country to implement renewable energy and energy efficiency measures in their operations.

The grants and loan guarantees are being provided through the s, a 2008 Farm Bill initiative. REAP offers funds for farmers, ranchers and rural small businesses to purchase and install renewable energy systems and make energy-efficiency improvements. These federal funds leverage other funding sources for small businesses. In all, USDA announced today more than $27 million in energy grants and guaranteed loans for projects. The REAP program is helping many agricultural producers and rural small businesses reduce energy consumption. For example, in Kirkwood, Pa., Jay Clifford Sensenig was selected to receive a $309,733 grant to install a co-op digester system that will process annually more than 16,800 tons of dairy, hog and chicken manure from four farms into methane gas, creating more than 879,000 kilowatts

[78] Increase In Fiscal Year 2011 Specialty Sugar Tariff-Rate Quota; Determination Of Total Amounts Of Fiscal Year 2012 Tariff-Rate Quotas For Raw Cane Sugar And Certain Sugars, Syrups And
Molasses; And Extension Of Entry Period For The Fiscal Year 2012 Raw Sugar Tariff-Rate Quota, Federal Register 46267 Vol. 76, No. 148 August 2, 2011

[79] USDA, Release No. 0427.11, Available At:
Http://Www.Usda.Gov/Wps/Portal/Usda/Usdahome?Contentid=2011/09/0427.Xml&Navid=NEWS_RELEASE&Navtype=RT&Parentnav=LATEST_RELEASES&Edeployment_Action=Retrievecontent

[80] USDA, Release No. 0425.11, Available At:
Http://Www.Usda.Gov/Wps/Portal/Usda/Usdahome?Contentid=2011/09/0425.Xml&Navid=NEWS_RELEASE&Navtype=RT&Parentnav=LATEST_RELEASES&Edeployment_Action=Retrievecontent

[81] USDA, Release No. 0361.11, Available At:
Http://Www.Usda.Gov/Wps/Portal/Usda/Usdahome?Contentid=2011/08/0361.Xml&Navid=NEWS_RELEASE&Navtype=RT&Parentnav=LATEST_RELEASES&Edeployment_Action=Retrievecontent

per year of electricity. In addition, the digester system is designed to accept and process food waste. The host farm uses 232,000 kilowatts annually; the excess energy produced from the digester will be sold to the local utility. In Beaver Dam, Wis., United Cooperative was selected to receive a $448,500 grant to help with the installation cost of 33 ethanol flex-fuel dispensers and 17 biodiesel dispensers. United Cooperative is a full-service cooperative that offers feed, grain, agronomy and energy products to south-central Wisconsin farmers and consumers.

The Obama Administration has set a goal of making 10,000 new flex-fuel pumps available to America's drivers within the next five years – a five-fold increase from today's level. By building infrastructure to put biofuels produced in America in our fuel tanks, USDA is supporting the clean energy economy we need to ensure our long-term prosperity and help us out-compete the rest of the world. USDA is working to support the research, investment and infrastructure necessary to build a nationwide biofuels industry that creates jobs in every corner of the country.

Stricter testing criterion for food safety-On September 13, 2011, the U.S. Department of Agriculture announced that it is taking new steps to fight E. coli and protect the safety of the American food supply. The testing pertains to: Non-O157:H7 E.coli (STEC's EHEC's) testing. Craig Wilson, Vice President, Quality Assurance and Food Safety, Costco Wholesale, started actual STEC testing investigations is ultimately aimed at becoming part of our the overall raw material purchase specification. This seems to be the next evolution in finish product testing.

The Obama Administration's announcement that ground beef contaminated with any of six additional disease-causing strains of E. coli bacteria is adulterated and must be removed from the market may be the biggest change in meat and poultry safety in the last fifteen years. The decision is consistent with the principles laid out by the President in his March 2009 television speech on food safety programs.[82]

Focus on Rural development-On June 9, 2011, President Obama signed an Executive Order establishing the first White House Rural Council to accelerate the ongoing work of promoting economic growth in rural America. The Council is focused on increasing rural access to capital, spurring agricultural innovation, expanding digital and physical infrastructure in rural areas, and creating economic opportunities through conservation and outdoor recreation.

On August 12, 2011 the White House Rural Council released a new report entitled *Jobs and Economic Security for Rural America*, which lays out the economic landscape rural Americans face today and highlights the Administration's key accomplishments in rural communities. The *Jobs and Economic Security for Rural America* report focused on five critical areas: creating jobs and promoting economic growth, improving access to quality health care and education, fostering innovation, expanding outdoor opportunities, and supporting veterans and military families. [83]

VI.B. Manufacturing sector

[82] USDA Release No, 0402.11 contract USDA Available at : Http://Www.Usda.Gov/Wps/Portal/Usda/Usdahome?Contentid=2011/09/0402.Xml&Navid=NEWS_RELEASE&Navtype=RT&Parentnav=LATEST_RELEASES&Edeployment_Action=Retrievecontent

[83] USDA, Release No. 0364.11, Available At: Http://Www.Usda.Gov/Wps/Portal/Usda/Usdahome?Contentid=2011/08/0364.Xml&Navid=NEWS_RELEASE&Navtype=RT&Parentnav=LATEST_RELEASES&Edeployment_Action=Retrievecontent

The report prepared by CRS published on July 1, 2011, highlights the state of manufacturing sector in the US. The part of the report which highlights the US policy on manufacturing has been summarized as:

The 112th Congress is considering a large amount of legislation intended to revive the manufacturing sector. The pending bills take extremely diverse approaches, ranging from establishing tax-exempt manufacturing reinvestment accounts (H.R. 110, Manufacturing Reinvestment Account Act of 2011) to encouraging "repatriation" of manufacturing (H.R. 516, Bring Jobs Back to America Act) to creating an Innovation Technology Loan Guarantee Program (S. 239, Innovate America Act) to increasing domestic content requirements for federally supported transportation projects (H.R. 613, Airports, Highways, High-Speed Rails and Transit: Make it in America Act) to creating a federal registry of skill credentials for manufacturing occupations (H.R. 1325, The America Works Act).

These proposals, and many others, are typically advanced with the stated goal of job creation, and often with the subsidiary goals of improving employment opportunities for less educated workers or reversing employment decline in communities particularly affected by the loss of manufacturing jobs.

The available data suggest, however, that these goals may be difficult to achieve. In particular:

- Even large increases in manufacturing activity are likely to translate into only modest gains in manufacturing employment due to firms' preference to use U.S. facilities for highly capital-intensive production. Examples of this heavy use of capital can be seen in two recent announcements by automotive manufacturers:

  General Motors stated in May that it would invest $2 billion in 17 U.S. facilities, thereby creating or preserving 4,000 jobs – an investment of $500,000 per job – and Hyundai said it would add 214 positions after spending $173 million to expand engine production, an investment of over $800,000 per job.[84]
- Increases in manufacturing employment are unlikely to result in significant employment opportunities for workers who have not continued their educations beyond high school, as the sorts of tasks performed by manufacturing workers increasingly require higher levels of education and training. At the same time, manufacturers report shortages of certain manufacturing skills. For example, Pennsylvania training officials predict openings for precision machining and skilled industrial workers over the next few years even though they expect total employment in related industries to decline.[85] This suggests that training efforts may be helpful in preparing individuals for manufacturing work even if they do not lead to an increase in total manufacturing employment.
- To the extent that federal policies lead to the establishment of new manufacturing facilities in the United States, those facilities are likely to provide only limited employment opportunities in the locations where they are built, as plants with more than 1,000 workers are now rare. This suggests that there will be relatively few instances in which the siting of a new plant, by itself, will suffice to revitalize a community with a struggling economy.
- Policies that promote construction of new facilities for manufacturing may be less effective ways of preserving or creating jobs than policies aimed at existing facilities, as new establishments are relatively unimportant as drivers of employment in manufacturing.
- It is important to note that increased manufacturing activity may lead to job creation in economic sectors other than manufacturing, such as transportation and business services. To the extent that increased domestic production of manufactured goods supplants imports, however, any increases

[84] General Motors Co., "GM To Invest $2 Billion In U.S. Plants, Adding 4,000 Job," Press Release, May 11, 2011, Http://Media.Gm.Com/Content/Media/Us/En/Gm/News.Detail.Html/Content/Pages/News/Us/En/2011/May/0510_Bigbang;
Office Of The Governor, State Of Alabama, "Hyundai Motor Manufacturing Alabama Expands Engine Plant," Press Release, May 16, 2011, Http://Www.Governor.Alabama.Gov/News/News_Detail.Aspx?ID=5080.

[85] Pennsylvania Center For Advanced Manufacturing Careers, "Critical Shortages Of Precision Machining And Industrial Maintenance Occupations In Pennsylvania's Manufacturing Sector," December 2010, Http://Www.Paworkforce.State.Pa.Us/Portal/Server.Pt/Community/Pa_Center_For_Advanced_Manufacturing_Careers/1890.

in ancillary employment related to domestic manufacturing may be counterbalanced by reduced employment related to the transportation and processing of imported goods, leaving the net employment effect uncertain.[86]

VI.C. Energy Sector

India-US renewable energy scheme - The president of Ex-Im bank in the US announced $25 million in Ex-Im Bank loans for two new solar-energy projects and is promoting the Bank's financing products to support the purchase of U.S. goods and services by Indian buyers. The loan is provided in the following heads: a $16 million, 16.5-year loan to Azure Power Rajasthan Pvt. Ltd. to purchase thin-film solar modules from First Solar Inc. in Tempe, Ariz, for the construction of a five-MW solar photovoltaic plant in the state of Rajasthan. Additionally, Ex-Im Bank authorized a $9.2 million, 18-year loan for thin-film solar modules from Abound Solar Inc. in Loveland, Colo., to Punj Lloyd Solar Power Ltd. for the construction of a five- MW photovoltaic solar power plant in Rajasthan.

These projects were finalized during the U.S - India Strategic Dialogue, held in New-Delhi. The officials from the US stated that the United States and India as the world's two largest democracies have a solid and unique partnership. There are tremendous opportunities for investments in projects that create jobs and help address India's growing energy and infrastructure needs.[87]

The issue of Biofuels subsidy in US - A CRS report released on July 1, 2011, lists out all the bio-fuel legislations and the status of their termination. The report indicates that with recent high energy prices, the passage of major energy legislation in 2005 (P.L. 109-58) and 2007 (P.L. 110-140), and the passage of a farm bill in 2008 (P.L. 110-246), there is ongoing congressional interest in promoting alternatives to petroleum fuels. Biofuels i.e., transportation fuels produced from plants and other organic materials are of particular interest.

Ethanol and biodiesel, the two most widely used biofuels, receive significant government support under federal law in the form of mandated fuel use, tax incentives, loan and grant programs, and certain regulatory requirements. The report lists 22 programs and provisions which have been established over the past three decades, and are administered by five separate agencies and departments: Environmental Protection Agency, U.S. Department of Agriculture, Department of Energy, Internal Revenue Service, and Customs and Border Protection. These programs target a variety of beneficiaries, including farmers and rural small businesses, biofuel producers, petroleum suppliers, and fuel marketers. Arguably, in prior years the most significant federal programs for biofuels have been tax credits for the production or sale of ethanol and biodiesel.

However, with the establishment of the renewable fuel standard (RFS) under P.L. 109-58, Congress has mandated biofuels use and P.L. 110-140 significantly expanded that mandate. In the long term, the mandate may prove even more significant than tax incentives in promoting the use of these fuels.

The 2008 farm bill, The Food, Conservation, and Energy Act of 2008 amended or established various biofuels incentives, including lowering the value of the ethanol excise tax credit, establishing a tax credit

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[86] Job Creation In The Manufacturing Revival, Marc Levinson, July 1, 2011, CRS
[87] Ex-Im Bank Highlights U.S. Engagement In Energy And Infrastructure Projects At U.S.-India Strategic Dialogue, July 19, 2011, EXIM Bank Press Release, Available At: Http://Www.Exim.Gov/Pressrelease.Cfm/42D3A75A-F6E1-0C2B-6066CC3311E911B7/

for cellulosic biofuel production, extending import duties on fuel ethanol, and establishing several new grant and loan programs.

Several key biofuels incentives had expired or were set to expire (e.g., a tariff on ethanol imported from most countries, as well as tax credits for biodiesel, renewable diesel, and ethanol) before the passage of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312). The incentives included in that law have been extended through the end of 2011.

However, it should be noted that support for extending some or all of these tax incentives beyond 2011 may be limited. On June 16, 2011, the Senate approved S.Amdt. 476, which would eliminate the excise tax credit for blending ethanol in gasoline. The report states that the prospects for the underlying legislation are unclear. This vote (73-27) suggests that it may be difficult to extend the credit beyond its scheduled December 31, 2011, expiration. The future of these bio-fuel programs shall be tracked in the 3rd review quarter report. [88]

Annexure I

United States and WTO dispute settlement

During the current review quarter (July-September, 2011), there were several disputes involving United States as a party at various stages of the dispute settlement process. The Panel and AB published several crucial reports on matters of zeroing, trade restrictions pertaining to public health and environment and other pending disputes on trade remedies etc. The following chart summarizes the position of United States in several disputes during the review quarter.

Consultations during the review quarter

DISPUTE DS427

[88] Biofuels Incentives: A Summary Of Federal Programs, Brent D. Yacobucci, July 1, 2011, CRS report

China — Anti-Dumping and Countervailing Duty Measures on Broiler Products from the United States

Complainant	Respondent	Provisions involved	Disputed Matter	Current Status
United States	China	Subsidies and Countervailing Measures: Art. 10, 11.1, 12.3, 12.4.1, 12.7, 12.8, 15.1, 15.2, 15.4, 15.5, 16.1, 19.4, 22.3, 22.4, 22.5 Anti-dumping (Article VI of GATT 1994): Art. 1, Annex II, 3.1, 3.2, 3.4, 3.5, 4.1, 5.1, 6.2, 6.4, 6.5.1, 6.8, 6.9, 12.2, 12.2.1, 12.2.2, 2.2, 2.2.1.1 GATT 1994: Art. VI, VI:3	On 20 September 2011, the United States requested consultations with China concerning China's measures imposing anti-dumping and countervailing duties on broiler products from the United States. The United States claimed that the measures appear to be inconsistent with various provisions of the Anti-Dumping Agreement related to the process of the anti-dumping investigation as well as the anti-dumping duty determination at issue (including improper dumping and injury determination, improper reliance on the facts available, failure to provide access to relevant information, insufficient explanation of the basis for the determinations, absence of proper analysis of the effects of imports under investigation, and absence of objective determination of causality). The United States further claimed that the measures appear to be inconsistent with various provisions of the SCM Agreement related to the process of the subsidy investigation as well as the countervailing duty determination at issue (including improper reliance on the facts available, insufficient explanation of the basis for the determinations, and imposition of countervailing duties in excess of the subsidy found to exist). The United States considered that the measures are also inconsistent with Article VI of the GATT 1994.	In consultation stage

Composition of Panels during the review quarter

DISPUTE DS413

China — Certain Measures Affecting Electronic Payment Services

Complainant	Respondent	Provisions involved	Disputed matter	Current status
United States	China	Services (GATS): Art. XVI, XVI:1, XVI:2(a), XVII	On 15 September 2010, the United States requested consultations with China with respect to "certain restrictions and requirements maintained by China pertaining to electronic payment services for payment card transactions and the suppliers of those services". The United States alleged that China permits only a Chinese entity (China Union Pay) to supply electronic payment services for payment card transactions denominated and paid in renminbi in China. Service suppliers of other Members can only supply these services for payment card transactions paid in foreign currency. China also requires all payment card processing devices to be compatible with that entity's system, and that payment cards must bear that company's logo. It further argued that the Chinese entity has guaranteed access to all merchants in China that accept payment cards, while services suppliers of other Members must negotiate for access to merchants. The United States alleged that China appears to be acting inconsistently with its obligations under Articles XVI and XVII of the GATS. .	On 11 February 2011, the United States requested the establishment of a panel. At its meeting on 24 February 2011, the DSB deferred the establishment of a panel. Panel and Appellate Body proceedings At its meeting on 25 March 2011, the DSB established a panel. Australia, the European Union, Guatemala, Japan and Korea reserved their third party rights. Subsequently, Ecuador reserved its third party rights. On 23 June 2011, the United States requested the Director-General to determine the composition of the panel. On 4 July 2011, the Director-General composed the Panel

Panel Reports circulated during the review quarter

Dispute title	Complainant	Respondent	Provisions involved	Disputed Matter	Proceedings and current status
DISPUTE SETTLEMENT: DISPUTE DS381	Mexico	United States	Technical Barriers to Trade (TBT): Art. 5, 6, 8, 2 GATT 1994:	On 24 October 2008, Mexico requested consultations with the United States	On 15 September 2011, the panel report was circulated to the Members Key findings of the Panel report

United States — Measures Concerning the Importation, Marketing and Sale of Tuna and Tuna Products			Art. I, III	with respect to the following measures: (i) the *United States Code*, Title 16, Section 1385 ("Dolphin Protection Consumer Information Act"), (ii) the *Code of Federal Regulations*, Title 50, Section 216.91 ("Dolphin-safe labeling standards") and Section 216.92 ("Dolphin-safe requirements for tuna harvested in the ETP [Eastern Tropical Pacific Ocean] by large purse seine vessels") and (iii) the ruling in *Earth Island Institute v. Hogarth*, 494 F.3d 757 (9th Cir. 2007). Mexico alleged that the measures at issue, which establish the conditions for use of a "dolphin-safe" label on tuna products and condition the access to the US Department of Commerce official dolphin-safe label upon bringing certain documentary evidence that varies depending on the area where tuna contained in the tuna product is	The Panel found that the US dolphin-safe labelling provisions constitute a technical regulation under the TBT Agreement. One of the members of the Panel expressed a dissenting opinion on this particular issue but sided with the majority for the rest of the report. The Panel's conclusion was based on the following two findings: (i) the findings that the US dolphin-safe labelling provisions only partly address the legitimate objectives pursued by the United States and (ii) the finding that Mexico had provided the panel with a less trade restrictive alternative capable of achieving the same level of protection of the objective pursued by the US dolphin-safe labelling provisions. As regards Mexico's claim under Article 2.4 of the TBT Agreement, the Panel found that the US dolphin-safe labelling provisions are not in violation of such provision, which requires technical regulations to be based on relevant international standards where possible. Despite finding that the standard referred to by Mexico is a relevant international standard for the purposes of the US dolphin-safe provisions and that the United States has not used it as basis for its measures, the Panel concluded that this standard would not be appropriate or effective to achieve the US objectives. The Panel declined to rule in addition on Mexico's non-discrimination claims under the GATT 1994 and therefore

				harvested and the fishing method by which it is harvested are inconsistent, *inter alia*, with Articles I:1 and III:4 of the GATT 1994 and Article 2.1, 2.2 and 2.4 of the TBT Agreement. On 6 November 2008, the European Communities requested to join the consultations. On 7 November 2008, Australia requested to join the consultations. On 9 March 2009, Mexico requested the establishment of a panel. At its meeting on 20 March 2009, the DSB deferred the establishment of a panel.	exercised judicial economy with respect to Mexico's claims under Articles I:1 and III:4 of the GATT.
DISPUTE SETTLEMENT: DISPUTE DS406 **United States — Measures Affecting the Production and Sale of Clove Cigarettes**	Indonesia	United States	Sanitary and Phytosanitary Measures (SPS): Art. 3, 5, 7, 2 Technical Barriers to Trade (TBT): Art. 2, 12, 2.1, 2.2, 2.3, 2.5, 2.8, 2.9, 2.10, 2.12 GATT 1994: Art. XXIII:1(a), III:4, XX	This dispute concerns Section 907(a)(1)(A) of the *Federal Food, Drug and Cosmetic Act* ("FFDCA"), which was added to the FFDCA by Section 101(b) of the *Family Smoking Prevention and Tobacco Control Act*. This measure bans the production and sale of clove cigarettes, as well as most other flavoured cigarettes, in the	On April 7, 2010, the request for consultation was received followed by the circulation of panel report on September 2, 2011. Panel's findings The panel found the ban to be inconsistent with the national treatment obligation in Article 2.1 of the TBT Agreement because it accords clove cigarettes less favourable treatment than that accorded to menthol-flavoured cigarettes. The Panel found that clove and menthol-flavoured cigarettes are "like products" within the

				United States. However, the measure excludes menthol-flavoured cigarettes from the ban. Indonesia is the world's main producer of clove cigarettes, and the vast majority of clove cigarettes consumed in the United States prior to the ban were imported from Indonesia. Indonesia's main claims were that the ban on clove cigarettes is discriminatory, and that it is also unnecessary. Indonesia further claimed that the United States acted inconsistently with SPS and TBT agreement	meaning of Article 2.1 of the TBT Agreement, based in part on its factual findings that both types of cigarettes are flavoured and appeal to youth. Having found a violation of Article 2.1 of the TBT Agreement, the Panel declined to rule on Indonesia's claim under Article III:4 of the GATT 1994, or on the United States' defence under Article XX(b) of the GATT 1994 (invoked only in respect of the claim under Article III:4 of the GATT 1994). However, the Panel rejected Indonesia's second main claim, which was that the ban is unnecessary. In this regard, the Panel found that Indonesia had failed to demonstrate that the ban is more trade-restrictive than necessary to fulfil a legitimate objective (in this case, reducing youth smoking) within the meaning of Article 2.2 of the TBT Agreement. The Panel's conclusion was based, in part, on its finding that there is extensive scientific evidence supporting the conclusion that banning clove and other flavoured cigarettes could contribute to reducing youth smoking. As regards Indonesia's other claims under the TBT Agreement, the Panel found that the United States acted inconsistently with Article 2.9.2 (obligation to notify WTO Members of technical regulations) and Article 2.12 (obligation to allow reasonable interval between publication and entry into force of technical regulations). However, the Panel found that Indonesia failed to demonstrate that the United States acted inconsistently with Article 2.5

					(obligation to provide an explanation of draft technical regulation), Article 2.8 (obligation to specify a technical regulation in terms of performance), Article 2.9.3 (obligation to provide particulars or copies of the proposed technical regulation) or Article 12.3 (obligation to take account of the special development, financial and trade needs of a developing country Member), and declined to rule on Indonesia's claim under Article 2.10 (obligation to notify in cases of urgency).

Panel Reports under Appeal during the review quarter

Dispute title	Complainant	Respondent	Provisions involved	Disputed Matter	Proceedings and Current status
DISPUTE SETTLEMENT: DISPUTE DS394 China — Measures Related to the Exportation of Various Raw Materials	United States	China	Protocol of Accession: Part I, para. 1.2, Part I, para. 5.1, Part I, para. 5.2, Part I, para. 8.2, Part I, para. 11.3, GATT 1994: Art. VIII, VIII:1, VIII:4, X, X:1, X:3, XI, XI:1	This dispute concerns four types of export restraint that China imposes on the export of a number of raw materials. The raw materials subject to the export restraints are various forms of bauxite, coke, fluorspar, magnesium, manganese, silicon carbide, silicon metal, yellow phosphorus and zinc. China is a leading producer of each of the raw materials which are used to produce everyday items	Requests for consultation was received on June 23, 2009 and the panel report was circulated on July 5, 2011. The Panel found that the wording of China's Protocol of Accession did not allow China to use the general exceptions in Article XX of the GATT 1994 to justify its WTO-inconsistent export duties. The Panel also considered that even if China were able to rely on certain exceptions available in the WTO rules to justify its export duties, it had not complied with the requirements of those exceptions. In particular, China had argued in its defence that some of its export duties and quotas were justified because they related to the conservation of exhaustible natural resources for some of the raw materials. But China was not able to demonstrate that it imposed these restrictions in conjunction with restrictions on domestic production or consumption of the raw materials so as to conserve the raw

	United			as well as technology products. The complainants argued that the use of export restraints creates scarcity and causes higher prices of the raw materials in global markets. They also provide Chinese domestic industry with a significant advantage by way of a sufficient supply, and lower and more stable prices for the raw materials. Upon its accession to the WTO, China undertook to eliminate all export duties (taxes) except for a number of products listed in an Annex to its Protocol of Accession. In this Protocol, China also committed not to apply export quotas (restrictions on	materials. The Panel acknowledged, however, that China appears to be heading in the right direction in adopting a framework to justify its quotas under WTO rules, but that the framework is not yet WTO-consistent as it still has to be put into effect for domestic producers. As for other of the raw materials, China had claimed that its export quotas and duties were necessary for the protection of the health of its citizens. China was unable to demonstrate that its export duties and quotas would lead to a reduction of pollution in the short- or long-term and therefore contribute towards improving the health of its people. China also committed to eliminate all restrictions on the "right to trade" — rights given to enterprises by China in parallel to market access and non-discrimination provisions guaranteed under the WTO. The complainants were successful in most of their trading rights claims. Regarding the administration and allocation of its export quotas, China successfully defended its practices in claims brought by the United States and Mexico whereas the European Union succeeded in its separate claim that it brought against China. The Panel also found that certain aspects of China's export licensing regime, applicable to several of the products at issue, restrict the export of the raw materials and so are inconsistent with WTO rules. Current status On 31 August 2011, China notified the DSB of its decision to appeal certain issues of law and legal interpretations of the panel report. On 6 September 2011, the United States notified the DSB of its decision to appeal certain issues of law and legal interpretations of the panel

				the amount that can be exported).	report.
DISPUTE SETTLEMENT: DISPUTE DS403 Philippines — Taxes on Distilled Spirits			GATT 1994: Art. III:2	The dispute arose with respect to the taxation of imported distilled spirits by the Philippines. The United States considers that the Philippines' taxes on distilled spirits discriminate against imported distilled spirits by taxing them at a substantially higher rate than domestic spirits. The United States cites a number of specific measures in its request, to be inconsistent with the GATT provisions	The Panel report was circulated on August 15, 2011. The measure at issue is an excise tax on distilled spirits, whereby a low flat tax is applied by the Philippines to spirits made from certain designated raw materials, while significantly higher tax rates are applied to spirits made from non-designated materials. In the Philippines, all domestic distilled spirits (mostly gins, brandies, rums, vodkas, whiskies and tequila-type spirits) are made from one of the designated raw materials, cane sugar, whereas the vast majority of imported spirits are made from non-designated materials (e.g. cereals or grapes). Consequently, all domestic spirits are subject to the low flat tax, while the vast majority of imported spirits are subject to one of the higher tax rates. The Panel found that because imported spirits are taxed less favourably than domestic spirits, the Philippine measure, while facially neutral, is nevertheless discriminatory and thus violates the obligations under the first and second sentences of Article III:2 of the GATT 1994. Current Status The Panel report was appealed on September 23, 2011

Appellate Body report circulated during the review quarter

Dispute title	Complainant	Respondent	Provisions involved	Subject matter of Dispute	Proceedings and current status
DISPUTE SETTLEME	China	United States	Protocol of Accession: Art.	The matter concerned increased tariffs on	The request for consultation was received on Sep, 14, 2009. The

NT: DISPUTE DS399 United States — Measures Affecting Imports of Certain Passenger Vehicle and Light Truck Tyres from China			16.6, 16.1, 16.3, 16.4 GATT 1994: Art. I:1, II, XIX	certain passenger vehicle and light truck tyres (subject tyres) from China. The decision of increased tariff was announced on 11 September 2009 following an investigation pursuant to section 421 of the Trade Act of 1974. The USITC determined that there was market disruption as a result of rapidly increasing imports of subject tyres from China that were a significant cause of material injury to the domestic industry. Following a Presidential decision additional duties were imposed on subject tyres imports for a three year period in the amount of 35 per cent *ad valorem* in the first year, 30 per cent *ad valorem* in the second year and 25 per cent *ad valorem* in the third year (the*tyres* measure).	Panel report was circulated on Dec, 13, 2010. The details of the findings of the Panel have been extensively dealt with, in Review quarter report 1.[89] China appealed aspects of the Panel's finding that, in imposing the safeguard measure in respect of imports of certain passenger vehicle and light truck tyres from China, the United States did not act inconsistently with its obligations under Section 16 of China's Accession Protocol. The Appellate Body report, circulated on Sep 5, 2011, **upheld** the Panel's finding that the USITC did not fail to properly evaluate whether imports from China met the specific threshold under Paragraph 16.4 of China's Accession Protocol of "increasing rapidly". The Appellate found that Paragraph 16.4 requires investigating authorities to assess import trends over a sufficiently recent period, and to determine whether imports are increasing significantly, either in absolute or relative terms, within a short period of time. With respect to the particular causation standard set out under Paragraph 16.4 of China's Accession Protocol, the Appellate Body **found** that the term "a significant cause" in Paragraph 16.4 of the Protocol requires that rapidly increasing imports make an "important" or "notable" contribution in bringing about material injury to the domestic industry. The Appellate Body explained that an investigating authority can make a determination as to whether subject imports are a "significant" cause of material injury only if it ensures that effects of other

[89] Reference to first review quarter report

					known causes are not improperly attributed to subject imports. Turning to China's specific claims of error in relation to the Panel's review of the USITC's causation analysis, the Appellate Body **upheld** the Panel's finding that the USITC did not err in its assessment of the conditions of competition in the overall US tyres market. The Appellate Body further **upheld** the Panel's finding that the USITC's reliance on overall coincidence between an upward movement in imports from China and a downward movement in injury factors supported the USITC's finding that rapidly increasing imports from China were a significant cause of material injury to the domestic industry. The Appellate Body also **upheld** the Panel's finding that China failed to establish that the USITC improperly attributed injury caused by other factors to imports from China. The Appellate Body found that the Panel did not err in its review of the USITC's analysis of the US industry's business strategy and the reasons for certain US plant closures; did not err in concluding that the USITC properly found that imports from China had injurious effects independent of changes in demand; and did not improperly attribute to Chinese imports the effects of imports from third countries. The Appellate Body said it considered the Panel's analysis to have been sufficient particularly given that, under Paragraph 16.4 of the Protocol, rapidly increasing imports from China may be one of several causes that contribute to producing or bringing about material injury to the domestic

					industry. Finally, the Appellate Body found that the Panel did not act inconsistently with Article 11 of the DSU in its review of the USITC's causation analysis.

Report(s) adopted during the review quarter, with recommendation to bring measure(s) into conformity

Dispute title	**Complainant**	**Respondent**	**Provisions involved**	**Disputed matter**	**Proceedings and current status**
DISPUTE SETTLEMENT: DISPUTE DS404 United States — Anti-dumping Measures on Certain Shrimp from Viet Nam	Vietnam	United States	Agreement Establishing the World Trade Organization: Art. XVI:4 Protocol of Accession: Part I, para. 1.2 Anti-dumping (Article VI of GATT 1994): Art. 1, Annex II, 6.8, 6.10, 9.1, 9.3, 9.4, 11.1, 11.2, 11.3, 2.1, 18.1, 18.3, 18.4, 2.4, 2.4.2 GATT 1994: Art. VI:2, I, II, VI:1, VI:2(a)	In this dispute, Viet Nam challenged certain aspects of the U.S. Department of Commerce (USDOC)'s final determinations in the U.S. anti-dumping proceedings against Certain Frozen Warmwater Shrimp from Viet Nam ("Shrimp"). Specifically, Viet Nam challenged the "continued use", by the USDOC, of certain practices, as well as their application in the second and third administrative reviews. The practices challenged by Viet Nam were the following: The USDOC's use of zeroing in the calculation of dumping margins; The USDOC's limitation of the	The request for consultation was received on February 1, 2010 and the Panel report was circulated on July 11, 2011. The panel findings could be summarised as: The Panel concluded that Viet Nam's panel request did not identify the "continued use of challenged practices" measure as a measure at issue in the dispute, as required by Article 6.2 of the DSU. The Panel upheld Viet Nam's claim that the USDOC's use of zeroing to calculate the dumping margins of respondents selected for individual examination in the second and third administrative reviews was inconsistent with Article 2.4 of the Anti-Dumping Agreement. The Panel upheld Viet Nam's claims that the United States' "zeroing

				number of exporters or producers selected for individual investigation or review. The application of a "Vietnam-wide entity" rate determined on the basis of adverse facts available to certain Vietnamese exporters or producers that could not establish that they act independently from the Vietnamese Government in their commercial and sales operations; In addition, Viet Nam made claims with respect to the "all others" rate applied by the USDOC in the second and third administrative reviews. Finally, Viet Nam also challenged, "as such", the U.S. "zeroing methodology", as it relates to the calculation of margins of dumping in the context of administrative reviews	methodology", as it relates to the use of simple zeroing in administrative reviews, is inconsistent with Article 9.3 of the Anti-Dumping Agreement and Article VI:2 of the GATT 1994. The Panel first concluded that Viet Nam had established the existence of the "zeroing methodology" as a rule or norm of general and prospective application. The Panel then relied on prior Appellate Body rulings to conclude that simple zeroing in administrative reviews is, "as such", inconsistent with these two provisions. The Panel upheld a claim by Viet Nam that the USDOC had acted inconsistently with Article 9.4 of the Anti-Dumping Agreement when it failed to apply to the Vietnam-wide entity the "all others" rate applied to respondents not selected for individual examination. The Panel reasoned that Article 9.4 does not entitle the authorities of the importing Member to render application of the "all others" rate conditional on the fulfilment of certain requirements, such as

					independence from the Government. The Panel also considered that the existence of a *lacuna* situation did not allow investigating authorities to not assign an "all others" rate to respondents otherwise entitled to receive such a rate. In addition, the Panel found that the USDOC's application of a facts available rate to the Vietnam-wide entity in the second administrative review, and a rate that was in substance a facts available rate in the third administrative review, was inconsistent with Article 6.8 of the Anti-Duping Agreement. Current status Pursuant to Article 19.1 of the DSU, having found that the United States has acted inconsistently with provisions of the Anti-Dumping Agreement and of the GATT, the Panel recommended that the United States bring its measures into conformity with its obligations under those Agreements.

Withdrawal of panel request

On the 27 September 2011 Dispute Settlement Body (DSB) meeting, Korea announced its decision to withdraw its panel request (WT/DS420/4) to review US anti-dumping measures on steel products from Korea. Korea said that it withdrew its panel request to continue bilateral discussions with the US.

Annexure II

Numerous bills in currently pending before the Congress address issues relate to trade. A highlight of those bills includes:

- S. 708, Trade Enforcement Priorities Act, a bill to renew and extend the provisions relating to identification of trade enforcement priorities, and for other purposes.

- S. 433, Free and Fair Trade Act of 2011, a bill to extend certain trade preference programs, and for other purposes.

- S. 380, the Andean Trade Preference Extension Act of 2011, seeks to reauthorize the Andean Trade Preference Act (ATPA), as a separate item. ATPA provides preferential tariff treatment to designated imported goods from Colombia and Ecuador.

- S. 433/H.R. 913, the Free and Fair Trade Act of 2011, would extend the Generalized System of Preferences (GSP) and ATPA through June 2012 and revoke eligibility for sleeping bags from GSP. GSP provides duty-free entry for up to 4,800 products from 129 specified countries.

- S. 328, Currency Reform for Fair Trade Act, a bill to amend title VII of the Tariff Act of 1930 to clarify that countervailing duties may be imposed to address subsidies relating to fundamentally undervalued currency of any foreign country.

- S. 98, Creating American Jobs through Exports Act of 2011, Expresses the sense of Congress that the President should: (1) continue the National Export Initiative to increase global export and investment opportunities for U.S. businesses that create jobs in the United States; and (2) submit the United States-Korea Free Trade Agreement, the United States-Colombia Trade Promotion Agreement, and the United States-Panama Trade Promotion Agreement to Congress, and Congress should approve them, to create U.S. jobs and stimulate the economy by eliminating trade barriers faced by U.S. exports that result in loss of jobs in the United States.

- S. 708, Trade Enforcement Priorities Act, seeks to renew and extend the provisions relating to identification of trade enforcement priorities.

- H.J.Res. 66, Approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

- H.R. 2707, Agricultural Trade Facilitation Act, establishes trade negotiating objectives of the United States with respect to the application of sanitary and phytosanitary measures to agricultural products to facilitate trade in agriculture.

- H.R. 2287, NAFTA Accountability Act, assesses the impact of the North American Free Trade Agreement, requires further negotiation of certain provisions of the NAFTA, and provides for the withdrawal from the NAFTA unless certain conditions are met.

- H.R. 2072, Securing American Jobs Through Exports Act of 2011, reauthorizes the Export-Import Bank of the United States.

- H.R. 1887, Free Trade With Cuba Act, to lift the trade embargo on Cuba, and for other purposes.

- H.R. 1749, Reciprocal Market Access Act of 2011, enhances reciprocal market access for United States domestic producers in the negotiating process of bilateral, regional, and multilateral trade agreements.

- H.R. 1717, Balancing Trade Act of 2011, requires that, in cases in which the annual trade deficit between the United States and another country is $10 billion or more for three consecutive years, the President take the necessary steps to create a more balanced trading relationship with that country.

- H.R. 1603 establishes the Emergency Trade Deficit Commission.

- H.R. 639/S. 328, the Currency Reform for Fair Trade Act, aim to make undervalued currencies, such as the Chinese yuan, a countervailable subsidy, which could receive remedial action from the U.S. Department of Commerce. H.R. 639, with 125 House cosponsors, seems to have considerable House support.

- H.R. 1655, the Stop Iran's Nuclear Weapons Program Act of 2011, seeks to expand existing sanctions against Iran. H.R. 29 provides for the withdrawal of the United States from the North American Free Trade Agreement.

- H.R. 516, Bring Jobs Back to America Act, would direct the Secretary of Commerce to create a comprehensive national manufacturing strategy to increase overall domestic manufacturing, create private sector jobs, identify emerging technologies, and identify a strategy for repatriating jobs to the United States.

- H.R. 554, Freedom Trade Act, would deny non-discriminatory treatment (normal trade relations treatment) from the products of a foreign country that (1) engages in violations of religious freedom, (2) restricts the freedom of workers to associate and to organize and bargain collectively, or (3) prohibits or limits the functioning of free and independent labor unions.

- H.R. 833, Agricultural Export Enhancement Act of 2011, seeks to define "payment of cash in advance" as the payment by the purchaser of an agricultural commodity or product and the receipt of such payment by the seller prior to (1) the transfer of title of such commodity or product to the purchaser, and (2) the release of control of such commodity or product to the purchaser.