

Remarks by James Mendenhall
General Counsel to the Office of the United States Trade Representative
On the 2006 National Trade Estimate Report
on Foreign Trade Barriers
Conference Call
Washington, DC
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James Mendenhall: Good morning. Today, USTR released the 2006 National Trade Estimate Report. This year's report is 712 pages. It covers trade barriers in 63 countries in all regions of the world. Last year's report covered 61 countries. Countries newly added this year include Cambodia and Laos. No countries were dropped from last year's report.

The longest sections of the report this year cover China, the EC, Japan and Korea – a reflection both of the nature of the specific barriers in place in these economies as well as the economic impact of those barriers on the United States.

As is evident from the size of the report, U.S. exporters face many, varied and complex barriers in markets around the world. Some of the barriers noted in the report are new, some remain from previous years, and some have been resolved.

Certain of the more significant problems highlighted in the report include the protection of intellectual property and the application of unjustified SPS measures in various markets around the world.

With respect to intellectual property, the protection of intellectual property in China remains a serious and growing concern. While China has made progress in revising its laws, very serious problems remain when it comes to the enforcement of those laws. IPR enforcement, though, is not a problem solely in China – Russia is another primary example noted in the report where we are facing problems with respect to IPR enforcement.

With respect to SPS, many significant problems remain, including the ban on imports of U.S. beef due to concerns over BSE in various markets around the world, as well as the EC moratorium on the approval of biotech products.

The report covers these and a wide variety of other barriers related to subsidies, standards, procurement, and other areas.

We have used many tools to address these barriers over the past year, ranging from formal dispute settlement to informal consultation.

Formal dispute settlement is, of course, critically important to our efforts to address unfair trade barriers. Over the past year, we have requested consultations or requested panels in four WTO dispute settlement cases, and we were on the verge on requesting consultations in one more case but achieved a satisfactory settlement before needing to take the formal step of filing a consultation request. Those WTO cases are as follows:

In May 2005, the United States requested the establishment of a WTO panel to challenge the EC's subsidies for civil aircraft.

In November 2005, we requested WTO consultations with Turkey to examine restraints Turkey imposed on imported rice. We requested a panel in that case in February 2006.

In January 2006, we notified China that we would be seeking WTO consultations to examine the WTO-consistency of an antidumping duty order China imposed on imports of kraft linerboard. China removed the order before the formal request was filed.

Earlier this month, we requested WTO consultations with Canada with respect to Canada's preliminary antidumping and countervailing duty order on imports of corn from the United States.

And yesterday, together with the EU, the United States filed a formal consultation request challenging China's regulation of imported auto parts. The auto parts case is the second WTO case against China – the first was also filed by the United States and challenged China's discriminatory VAT on semiconductors. That case was settled before going to a panel, and last year, China removed the discriminatory elements of the VAT tax.

In addition, we had several positive developments with respect to disputes that had been ongoing through last year. As noted, we completed the settlement of China semiconductor VAT case. Japan removed SPS restrictions on apples in response to a US victory at the WTO. As reported in the press, the US prevailed in its challenge to the EC's moratorium on approvals of biotech food products. We also won several claims in our dispute with the EC over the EC's customs regime.

We prevailed in a WTO challenge to a Mexican antidumping order on imported rice. In March 2006, the Appellate Body, the WTO appellate body, found in favor of the United States in its challenge to Mexico's 20 % tax on beverages made with high fructose corn syrup.

In response to a US victory to a WTO challenge to the EC's regulation of geographical indications, the EC has taken steps to implement the decision which we are now reviewing. In August 2005, Mexico reformed its telecom regulation to comply with finding of a WTO panel that the United States had requested.

Outside of dispute settlement, we have utilized many tools to address critical trade problems identified in previous years' reports. Our engagement with China provides several prime examples:

Our overall strategy with respect to China is laid out in our February 2006 Top to Bottom Review. As outlined in that report, and in other reports USTR has issued, and we have taken a number of steps to address trade barriers in China.

With respect to IPR enforcement, we utilized a special procedure set forth in Article 63 of the TRIPS Agreement to request detailed information from China on the status of IPR enforcement.

In order to deal with the explosion of textile exports from China, we negotiated a special textiles agreement, lasting through 2008, covering over 30 individual products. We continue to make progress on these and other fronts, working through the JCCT process.

Notable successes outside the China context and outside dispute settlement include the following:

This month the US and EC signed a bilateral agreement on wine-making practices and labeling that will facilitate bilateral trade in wine valued at \$2.8 billion annually. We negotiated a compensation agreement with the EC to deal with changes to EC tariffs resulting from the accession of new member states. We have made steady progress several countries with respect to the protection of intellectual property. Notable examples include Ukraine and Pakistan, where we leveraged our Special 301 process and our GSP benefits to achieve progress and, of course, we continue to make progress through the negotiation of our free trade agreements and in the WTO.

With respect to the WTO, notable milestones over the past year include an agreement we reached in Hong Kong in December to eliminate all types of agricultural export subsidies by the end of 2013. We managed to bring Saudi into the fold in the WTO. They acceded last year. We completed our bilateral negotiations with Ukraine on their accession and we continue to make progress on Russia, Vietnam, and Kazakhstan.

With respect to our FTAs, we achieved passage of the Central American Free Trade Agreement, and we are now working on implementation. The agreement has already entered into force with respect to El Salvador. We expect others to soon follow. Notable achievements there include achievements not only in IP, goods, services and other areas but also we have negotiated the recognition of US meat inspection regimes with our trading partners in the CAFTA region.

The Morocco FTA came into effect on January 1. We completed negotiations with Oman, Peru and Colombia and we launched negotiations with Korea and Malaysia and we continue to move forward on several others.

All of these FTAs provide very high level standards on SPS, on intellectual property, on services, goods and a wide variety of other areas.

Despite some significant strides made over the past year, significant challenges of course remain, which are detailed in the report. We will continue to use all tools at our disposal to deal effectively with those problems. Dispute settlement will continue to play a primary role, but we will continue to use other tools at our disposal both formal and informal, to achieve our objectives.

With that overview, we will open it up for questions.

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