

# III. BILATERAL AND REGIONAL NEGOTIATIONS AND AGREEMENTS

## A. Free Trade Agreements

### 1. Australia

The United States-Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. U.S. two-way goods and services trade with Australia was an estimated \$56 billion in 2011, up 73 percent since 2004, the year before the FTA entered into force. U.S. goods exports were \$24 billion in 2011, up 71 percent from 2004, and U.S. goods imports were \$10 billion, up 34 percent from 2004. The United States had a \$14 billion goods trade surplus, and a \$10 billion services trade surplus with Australia in 2011.

Agricultural trade between the United States and Australia continued to grow in 2011, with U.S. agriculture exports to Australia reaching \$1.2 billion. Under the FTA, the two countries established working groups aimed at promoting closer cooperation between them in this sector and creating fora for discussing agricultural and sanitary and phytosanitary issues. The working groups met in April 2011 to address specific bilateral animal and plant health matters with a view to facilitating agricultural trade. The next working group meeting will be held in early 2012.

In 2011, the United States and Australia continued to closely monitor FTA implementation and discuss a range of FTA issues. The two sides worked to further deepen the trade and investment relationship in the Trans-Pacific Partnership as well as through WTO and APEC initiatives.

### 2. Bahrain

The United States-Bahrain Free Trade Agreement, which entered into force on August 1, 2006, generates export opportunities for the United States, creating jobs for U.S. farmers and workers. On the first day the agreement took effect, 100 percent of the two-way trade in industrial and consumer products began to flow without tariffs. In addition, Bahrain opened its services market wider than any previous FTA partner, creating important new opportunities for U.S. financial service providers and companies that offer telecommunications, audiovisual, express delivery, distribution, healthcare, architecture, and engineering services. The United States-Bahrain Bilateral Investment Treaty (BIT), which took effect in May 2001, covers investment issues between the two countries.

The central oversight body for the Agreement is the United States-Bahrain Joint Committee (JC), chaired jointly by USTR and Bahrain's Ministry of Industry and Commerce. Dates for the third meeting of the JC have not yet been set, but when scheduled, officials of the two governments expect to discuss a broad range of trade issues, including efforts to increase bilateral trade and investment levels, possible cooperation in the broader MENA region, and additional cooperative efforts related to labor rights and environmental protection.

In April 2011, the American Federation of Labor and Congress of Industrial Organizations filed a submission with the U.S. Department of Labor alleging that the government of Bahrain took certain actions related to the protests in February and March that, if substantiated, would be inconsistent with Bahrain's commitments under the FTA Labor Chapter. In June, the Department of Labor accepted the submission for review. In December, the Department of Labor extended the timeframe for its review. At

the end of the review, expected in early 2012, the Department of Labor will issue a public report on its findings.

### **3. Central America and the Dominican Republic**

#### **a. Overview**

On August 5, 2004, the United States signed the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic. The CAFTA-DR is the first free trade agreement between the United States and a group of developing economies. This agreement is creating new economic opportunities by eliminating tariffs, opening markets, reducing barriers to services, and promoting transparency. It is facilitating trade and investment among the seven countries and furthering regional integration.

Central America and the Dominican Republic represent the third largest U.S. goods export market in Latin America, behind Mexico and Brazil. U.S. goods exports to the CAFTA-DR countries were valued at \$30.5 billion in 2011. Combined total two-way trade in 2011 between the United States and Central America and the Dominican Republic was \$58.7 billion.

The agreement entered into force for the United States and El Salvador, Guatemala, Honduras, and Nicaragua during 2006, for the Dominican Republic on March 1, 2007, and for Costa Rica on January 1, 2009. With the addition of Costa Rica, the CAFTA-DR is in force for all seven countries that signed the Agreement.

The inaugural meeting of the CAFTA-DR Free Trade Commission (FTC) took place on February 22-23, 2011 in El Salvador. Trade Ministers reviewed implementation of the CAFTA-DR and took several important actions to expand the benefits and strengthen the operation of the Agreement.

#### **b. Elements of the CAFTA-DR**

##### **i. Operation of the Agreement:**

The central oversight body for the CAFTA-DR is the Free Trade Commission, comprised of the U.S. Trade Representative and the trade ministers of the other CAFTA-DR Parties or their designees. The FTC is responsible for supervising the implementation and operation of the agreement. On February 22-23, 2011, the FTC met for the first time in El Salvador. Trade Ministers reviewed implementation of the CAFTA-DR and took several important actions to expand the benefits and strengthen the operation of the Agreement, as noted below.

At its inaugural meeting, the FTC endorsed a CAFTA-DR Trade Facilitation Initiative to enhance regional integration and competitiveness, expand and broaden the benefits of trade under the Agreement, and support jobs, with special attention to promoting greater participation by small and medium sized business. With input from the private sector and the support of the InterAmerican Development Bank, the CAFTA-DR countries will identify challenges to the efficient flow of trade in the region and policies and best practices to address them. Among several initiatives, the Ministers released “Frequently Asked Questions about Opportunities for Small Businesses to Export in the CAFTA-DR Region,” providing answers to questions for firms that want to expand their business by taking advantage of the CAFTA-DR Agreement and expand their export markets.

The Ministers also received reports on the work of the CAFTA-DR Labor Council, the Environmental Council, and the Trade Capacity Building Committee, and they reviewed the work of the technical committees and advanced implementation issues (*see subsection v, Other Implementation Matters, below, for more technical details*).

On October 27, 2011, CAFTA-DR Vice Ministers met in Washington, D.C. to follow up on issues raised at the February FTC meeting. They agreed to host a Trade Facilitation Dialogue in Miami on January 23-24, 2012, for the region's top trade officials and leading private sector representatives to exchange views.

## **ii. Labor:**

Ongoing labor capacity building activities are supporting efforts to improve the enforcement of labor laws in the CAFTA-DR countries. In particular, U.S. Government assistance focuses on strengthening and modernizing the labor ministries and justice systems in the CAFTA-DR countries and promoting a culture of compliance with labor laws in each CAFTA-DR country.

In August 2011, the United States invoked arbitration against the government of Guatemala under the CAFTA-DR for the government of Guatemala's apparent failure to effectively enforce its labor laws in contravention of its CAFTA-DR obligations. This is the first time the United States has taken such action on a labor matter under an FTA. Prior to taking this action, in July 2010, the U.S. Trade Representative and the U.S. Secretary of Labor requested consultations with Guatemala under the CAFTA-DR concerning Guatemala's apparent failures to effectively enforce its labor laws related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work. The request for consultations followed a submission filed with the U.S. Department of Labor in April 2008 by the American Federation of Labor and Congress of Industrial Organization and several Guatemalan unions, alleging that the government of Guatemala was failing to effectively enforce its labor laws. The Department of Labor published a report in January 2009, which found systemic weaknesses in Guatemala's labor law enforcement. Despite extensive bilateral engagement and a meeting of the FTC pursuant to the dispute settlement chapter of the CAFTA-DR, the government of Guatemala did not take effective steps to address these systemic weaknesses, leading to the request for an arbitral panel.

In July 2010, the International Longshore and Warehouse Union (ILWU) and two Costa Rican worker organizations filed a submission with the U.S. Department of Labor alleging that the government of Costa Rica is failing to effectively enforce its labor laws. Due to developments after the submission was filed, including a Constitutional Court ruling in Costa Rica related to the issues raised in the submission, the U.S. Department of Labor extended until April 2011 the time to consider whether to accept the submission for review. The ILWU withdrew its submission on April 13, 2011 and the U.S. Department of Labor closed the review.

## **iii. Environment:**

U.S. Government assistance for environment capacity building programs and activities in Central America and the Dominican Republic continued in 2011. Capacity building focused on compliance with specific CAFTA-DR environment chapter obligations, strengthening of environmental laws and enforcement, biodiversity conservation, including through market-based approaches, and improving private sector environmental performance. Public outreach efforts continued in 2011. The Secretariat for Environmental Matters ("Secretariat"), established in 2006 in accordance with the CAFTA-DR, received several new submissions from the public in 2011 on a range of environmental concerns. The Secretariat made progress on improving the timeliness for its review of public submissions. The CAFTA-DR Environment Affairs Council contact points met twice in 2011 to discuss priorities for environmental capacity building programming and to prepare for and follow up on the January 2011 Environmental

Affairs Council (EAC) meeting. During the January 2011 EAC meeting, Council Members highlighted their government's successes with respect to implementation of obligations under the environment chapter, as well as accomplishments under the parallel environmental cooperation agreement, and they prepared a report on their work that was delivered to the Free Trade Commission meeting on February 22-23, 2011.

#### **iv. Trade Capacity Building:**

Trade Capacity Building (TCB) programs and planning continued throughout 2011 with the U.S. Trade Representative, along with the U.S. Agency for International Development (USAID) and other donors, such as the U.S. Department of Agriculture, meeting in the full Trade Capacity Building Committee established under the agreement, as well as bilaterally with each of the CAFTA-DR partner countries. Discussions focused on the prioritization of CAFTA-DR partners' trade capacity building objectives, including successful implementation and full utilization of the opportunities created by the CAFTA-DR, with a special emphasis on sanitary and phytosanitary (SPS) and trade facilitation activities.

USAID announced the initiation of new regional programs addressing customs, trade facilitation and SPS activities. The U.S. Department of Commerce initiated a series of customs modernization workshops that will be held throughout the region in 2012. In support of the CAFTA-DR FTC's *Trade Facilitation Initiative* and the recommendations of the CAFTA-DR Committee on Technical Barriers to Trade and the Committee on Trade in Goods, USTR organized a standards workshop for CAFTA-DR countries in December of 2011 and started planning and organizing a customs workshop focusing on improved implementation of the Agreement to take place in early in 2012. Finally, USAID, together with assistance from the U.S. Department of State and the Higher Education and Development organization, will extend a program that began with the establishment of several small business development centers (SBDCs) in El Salvador, to create a network of SBDCs throughout the region. USTR, the U.S. Department of State, the Small Business Administration, and other agencies, are working with various partner organizations, including multilateral institutions and universities, to connect U.S. and regional SBDCs in order to help our SMEs take better advantage of trade opportunities.

#### **v. Other Implementation Matters:**

As noted above, during 2011, several technical meetings were held to review and advance implementation matters under the agreement. At its February 22-23 meeting, the FTC adopted various decisions to strengthen implementation. The FTC adopted model rules of procedure and a code of conduct for dispute settlement and rosters of dispute settlement panelists, which bolster implementation and enforcement of the Agreement. Ministers also decided on a number of changes to the Agreement's rules of origin for textile and apparel goods to enhance the competitiveness of the region's textiles sector through regional sourcing and integration. In addition, as called for in the Agreement, they agreed to increase the cumulation limits, which allow specific quantities of designated apparel products to enter the United States from Central America and the Dominican Republic containing inputs from Mexico and potentially Canada, in order to encourage greater integration of regional production. These changes in textiles and apparel were in addition to other important changes to the Agreement's textiles provisions implemented by the CAFTA-DR Parties on August 15, 2008, including changing the rules of origin to ensure that pocket fabric in apparel is sourced from the United States or another CAFTA-DR Party. The Parties also implemented a reciprocal textile input sourcing rule with Mexico. Under this rule, Mexico will provide duty-free treatment on certain apparel goods produced in a Central American country or the Dominican Republic with U.S. input, and the United States will provide reciprocal duty-free treatment under the CAFTA-DR on certain apparel goods produced in a Central American country or the Dominican Republic with Mexican input.

Further, in February 2011, the FTC endorsed the CAFTA-DR Textiles Sourcing Database, to facilitate regional sourcing and encourage a vibrant textile and apparel supply chain in the region. In addition, the FTC established the Committees on Agricultural Trade and Sanitary and Phytosanitary Matters as required by the Agreement.

Subsequently, as agreed at the October 27, 2011 Vice Ministers' meeting, an FTC decision established Common Guidelines for application and interpretation of the rules of origin under CAFTA-DR. Work with CAFTA-DR partners to update the product-specific rules of origin to reflect changes to the Harmonized System will further facilitate traders' appropriate claims and customs administrations' application of the Agreement's rules of origin. In addition, technical experts in the Technical Barriers to Trade Committee met in December 2011.

The United States also continued to work closely with its CAFTA-DR partners on bilateral matters related to the Agreement, with a particular focus on ensuring that its partners properly implement the Agreement. For example, the U.S. Government worked with several CAFTA-DR partners on implementation of agricultural trade matters such as administration of tariff-rate quotas and SPS issues. The U.S. Government also worked with the government of Costa Rica to review and support its market opening for wireless mobile and satellite internet services.

## **4. Chile**

### **a. Overview**

The United States-Chile Free Trade Agreement entered into force on January 1, 2004.

The United States-Chile FTA eliminates tariffs and opens markets, reduces barriers for trade in services, provides protection for intellectual property, ensures regulatory transparency, guarantees non-discrimination in the trade of digital products, commits the Parties to maintain competition laws that prohibit anticompetitive business conduct, and requires effective labor and environmental enforcement. In 2011, U.S. goods exports to Chile increased by an estimated 44 percent to \$15.7 billion, while U.S. goods imports from Chile increased by 33 percent to \$9.3 billion.

### **b. Elements of the United States-Chile FTA**

#### **i. Operation of the Agreement**

The central oversight body for the FTA is the United States-Chile Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Chilean Director General of International Economic Affairs or their designees. The FTC held its seventh meeting on August 2, 2011, during which the two governments evaluated progress on the implementation and operation of the FTA during 2010. The Parties also exchanged letters to liberalize the rules of origin of a broad range of products, covering \$1.4 billion dollars in trade, and held a meeting to discuss how to further enhance the ability of small and medium enterprises (SMEs) to capitalize on the benefits of the United States-Chile FTA.

#### **ii. Labor**

The FTA establishes a cooperative mechanism to promote respect for the principles embodied in the ILO Declaration on Fundamental Principles and Rights at Work, and compliance with ILO Convention 182 on the Worst Forms of Child Labor. The U.S. Department of Labor and the Chilean Ministry of Labor

continue to exchange information on occupational safety and health and social protections related to employment.

### **iii. Environment**

At the August 2, 2011 Free Trade Commission Meeting, Chile provided an update on changes to Chilean environmental legislation that led to the establishment of several new entities, including the Ministry of Environment (responsible for the development of environmental policy), the Superintendency of Environment (enforcement body), and the Environmental Evaluation Service (responsible for the management of environmental evaluations and assessments).

The U.S. State Department led implementation of the United States-Chile Environmental Cooperation Agreement. In 2011, several agencies carried out a range of cooperative activities with Chile under the Cooperation Agreement, including training for Chilean Supreme Court justices in adjudicating environmental enforcement cases, and development and dissemination of a guide for public access to environmental information.

The Parties plan to hold an Environmental Affairs Council meeting in Chile in 2012.

### **iv. Intellectual Property Rights**

Chile remained on the Priority Watch List in 2011. The United States continues to engage in discussions with Chile concerning the implementation of Chile's IPR commitments under the FTA. Chile took positive steps in 2010 and 2011 to implement its outstanding intellectual property obligations under the FTA, including by acceding to the Trademark Law Treaty and the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels Convention). Chile also is taking steps to accede to the International Convention for the Protection of New Varieties of Plants (UPOV-91). However, Chile must still take steps to provide an effective system for addressing patent issues expeditiously in connection with applications to market pharmaceutical products, and to provide protections against the circumvention of technological protection measures. Chile must also provide protections for encrypted program-carrying satellite signals; ensure that administrative and judicial procedures and deterrent remedies are made available to rights holders; and amend its Internet service provider liability regime to permit effective action against acts of infringement of copyrights and related rights.

## **5. Israel**

The United States-Israel Free Trade Agreement is the United States' first FTA. It entered into force in 1985 and continues to serve as the foundation for expanding trade and investment between the United States and Israel by reducing barriers and promoting regulatory transparency. From 2010 to 2011, U.S. goods exports to Israel rose by an estimated 25.6 percent, to \$14.2 billion.

The central oversight body for the FTA is the United States-Israel Joint Committee (JC). In December 2009, the JC met to exchange views on issues and concerns, including, among others, concerns related to agricultural market access, telecommunications, and government procurement. As a follow-up to that meeting, in August 2011, the United States and Israel finalized a work plan that addresses the remaining barriers to bilateral trade, including in the areas of agriculture and services. As initial steps under the work plan, the two sides agreed to pursue negotiations towards implementation of a Mutual Recognition Agreement for assessing conformity in telecommunications equipment and to facilitate trade by reviewing existing customs procedures and regulations. The two sides also made progress on a number of market

access issues related to standards, customs classification, and technical regulations. Both sides agreed to continue the dialogue through the United States-Israel JC meetings.

Recognizing in the 1990s that the FTA had inadequately liberalized bilateral agriculture trade, the United States and Israel concluded an Agreement Concerning Certain Aspects of Trade in Agricultural Products (ATAP), which provided for duty-free or other preferential treatment of certain agricultural products. The 1996 agreement was extended through 2003, and a new agreement was concluded in 2004. While this Agreement originally extended through 2008, it has been extended annually since then. In December 2011, the two sides agreed to extend that agreement through December 31, 2012.

In June 2011, in order to facilitate improved agricultural access, USTR proposed, and the Israelis ultimately agreed to, a work plan that identifies actions to be taken by the United States and Israel to negotiate a successor to the 2004 ATAP, which would result in significant improvements for U.S. agriculture exports to Israel. The Working Group on Agriculture agreed to meet in early 2012 to continue negotiations.

Despite the impasse over agricultural trade, technical experts from the United States and Israel worked together to resolve some existing agricultural trade concerns during 2011. Israel continued to work to resolve customs questions on the transshipment of fresh food products. However, many technical barriers still remain for U.S. agricultural products' entry into the Israeli market.

In connection with the 2009 Special 301 out-of-cycle review, the United States and Israel reached an understanding on February 18, 2010, regarding several longstanding issues with respect to Israel's IPR regime for pharmaceutical products. As part of that understanding, Israel committed to strengthen its laws on pharmaceutical test data and patent term extension, and to publish patent applications promptly after the expiration of eighteen months from the time an application is filed. The United States agreed to move Israel to the 301 Watch List once Israel submitted appropriate legislation, and to remove Israel from all Special 301 lists once the government enacted legislation that implemented Israel's obligations fully. Israel enacted legislation regarding data protection, and it has advised that it will submit legislation regarding patent term extension and patent publication.

## **6. Jordan**

In 2011, the United States and Jordan continued to benefit from their economic partnership. A key element of this relationship is the United States-Jordan Free Trade Agreement, which entered into force on December 17, 2001, and was implemented fully on January 1, 2010. In addition, the Qualifying Industrial Zones (QIZs), established by the U.S. Congress in 1996, allow products to enter the United States duty free if manufactured in Jordan, Egypt, or the West Bank and Gaza, with a specified amount of Israeli content. The program has succeeded in stimulating significant business cooperation between Jordan and Israel.

Together these measures have played a significant role in boosting overall United States-Jordanian economic ties. U.S. goods exports were an estimated \$1.4 billion in 2011, up 22 percent from 2010. QIZ products still account for more than half of Jordanian exports to the United States, but the QIZ share is declining relative to total products shipped under the FTA. This shift toward exporting products manufactured outside of the QIZs demonstrates the important role the FTA plays in helping Jordan diversify its economy.

The United States-Jordan FTA has expanded the trade relationship between the two countries by reducing barriers for services, providing cutting edge protection for intellectual property, ensuring regulatory

transparency, and requiring effective labor and environmental enforcement. In June 2010, the two sides crafted a plan of action, pursuant to the 2009 meeting of the JC charged with administering the FTA. Under this strategy, officials committed to explore ways to intensify cooperation in the areas of customs, agriculture, intellectual property rights, labor, the environment, and technical assistance.

As one example, USTR led a mission to Jordan in October 2011 to address labor issues. During the visit, U.S. Government officials from USTR, the Department of Labor, and the Department of State held extensive meetings with Jordanian government officials, and also met with representatives from labor unions and worker rights advocates, as well as business groups. During the mission, U.S. officials visited factories located in QIZs to monitor working conditions and urge the government of Jordan to continue making improvements on labor rights issues, especially with regard to migrant workers in apparel factories. To support this effort, the United States and Jordan are funding an International Labor Organization (ILO) Better Work program, which is observing working conditions in garment factories and issuing public reports. The project was launched in 2008 and the ILO began monitoring activities in QIZ factories in 2009.

## **7. Morocco**

The United States-Morocco Free Trade Agreement entered into force on January 1, 2006. The FTA is a comprehensive agreement that is an important part of the effort to promote a more open and prosperous society. It supports the significant economic and political reforms that are underway in Morocco and provides improved commercial and market opportunities for U.S. exports to Morocco by reducing and eliminating trade barriers.

Since the entry into force of the FTA, the U.S. goods trade surplus with Morocco has risen to \$1.6 billion in 2011, up from \$35 million in 2005 (the year prior to entry into force). U.S. goods exports in 2011 were \$2.7 billion, up 37 percent from the previous year. Corresponding U.S. imports from Morocco were \$1.0 billion, up 49 percent from 2010.

The Joint Committee (JC) established by the FTA last met in November 2009. The next JC meeting is expected to be held in the first part of 2012. In October 2010, the United States and Morocco agreed to develop an action plan for activities to pursue in advance of the next JC meeting. Pursuant to the action plan, in 2011, the two sides negotiated and concluded a Customs Mutual Assistance Agreement. In 2011, Morocco also announced it had formally acceded to the WIPO Internet Treaties, implementing a commitment it made in the context of the FTA. The two sides also resumed their discussions regarding Morocco's tariff-rate quotas on wheat established under the FTA; the United States continues to have concerns about administration of these tariff-rate quotas.

In May 2010, the United States and Morocco convened the first meeting of the Subcommittee on Labor Affairs created under the FTA. The Subcommittee agreed to a series of cooperative labor activities to improve enforcement of Morocco's labor laws, including training for labor inspectors on mediation of workplace disputes. In 2011, the Department of Labor provided funding for the U.S. Federal Mediation and Conciliation Service (FMCS) to develop and deliver a series of training modules for labor inspectors on mediation techniques. In September 2011, FMCS trained labor inspectors in Casablanca, Marrakesh, Rabat, and Tangiers.

In 2011, Morocco and the United States continued their strong collaboration on environmental cooperation efforts. The U.S. Department of the Interior provided technical assistance to train Moroccan customs officials on the enforcement of the Convention on International Trade in Endangered Species (CITES). The U.S. Forest Service provided rangeland management training to Moroccan officials and



supported the establishment of a Rangeland Management School in the Middle Atlas Mountains to help protect Morocco's primary water source. Tourism is a key sector of the Moroccan economy, and the U.S. Department of the Interior, the Moroccan Ministry of Tourism, and the United Nations Global Sustainable Tourism Council implemented a Sustainable Tourism Criteria Ratings Program in Morocco. Additionally, the World Environment Center, in collaboration with the Moroccan Cleaner Production Center, began work with more than 20 small and medium sized enterprises to increase energy efficiency and establish cleaner production methods in the food canning sector in Morocco. In December 2011, the two sides discussed strengthening their trade-related environmental cooperation and agreed to focus on green economy issues in developing future environmental collaboration activities that will support Morocco's implementation of the environment chapter of the FTA.

## **8. North American Free Trade Agreement**

### **a. Overview**

On January 1, 1994, the North American Free Trade Agreement between the United States, Canada, and Mexico (NAFTA) entered into force. All remaining duties and quantitative restrictions were eliminated, as scheduled, on January 1, 2008. The NAFTA created the world's largest free trade area, which now links 457 million people producing roughly \$18 trillion worth of goods and services.

Trade between the United States and its NAFTA partners has soared since the agreement entered into force. U.S. two-way goods trade with Canada and Mexico exceeds U.S. goods trade with the European Union and Japan combined. U.S. goods exports to the NAFTA partners have more than tripled between 1993 and 2011, from \$142 billion to an estimated \$480 billion.

By dismantling barriers, the NAFTA has led to increased trade and investment, growth in employment, and enhanced competitiveness. From 1993 to 2010, cumulative foreign direct investment (stock) in the NAFTA countries has increased by over \$3.4 trillion. Increased investment has brought better paying jobs, as well as lower costs and more choices for consumers and producers.

The NAFTA was also the first U.S. FTA to link free trade with obligations to protect labor rights and the environment. In connection with the NAFTA, the United States and Mexico also agreed to fund a development bank to address environmental infrastructure needs along the U.S.-Mexico border.

### **b. Elements of NAFTA**

#### **i. Operation of the Agreement:**

The NAFTA's central oversight body is the NAFTA Free Trade Commission (FTC), comprised of the U.S. Trade Representative, the Canadian Minister for International Trade, and the Mexican Secretary of Economy or their designees. The FTC is responsible for overseeing implementation and elaboration of the NAFTA and for dispute settlement.

The FTC held its most recent annual meeting in January 2011, in Mexico City. At the meeting, the FTC agreed to ask the relevant NAFTA committees to continue their work to identify areas where unnecessary regulatory differences can be eliminated. Following the FTC meeting, the United States continued work through its bilateral regulatory cooperation frameworks with Canada and Mexico. The FTC initialed the basic terms of two bilateral mutual recognition agreements that will establish procedures for accepting test results from laboratories or testing facilities in the territory of another NAFTA country for use in the conformity assessment of telecommunications equipment. The United States and Mexico signed their

bilateral agreement in May; Canada and Mexico signed a similar bilateral agreement in November 2011. Deputy trade ministers met in September 2011, to assess progress on the NAFTA workplan and to prepare for the next FTC meeting in 2012.

#### **ii. NAFTA and Labor:**

The North American Agreement on Labor Cooperation (NAALC), a supplemental agreement to the NAFTA, promotes effective enforcement of domestic labor laws and fosters transparency in their administration. The NAALC established a trinational Commission for Labor Cooperation, comprised of a Ministerial Council and an administrative Secretariat. In addition, each NAFTA Party has established a National Administrative Office (NAO) within its Labor Ministry to serve as a contact point with the other Parties and the Secretariat, to provide publicly available information to the Secretariat and the other NAOs, and to provide for the submission and review of public communications on labor law matters. The NAOs, together with the Secretariat, also carry out the Council's Cooperative Activities program.

In 2011, The NAOs from the three NAFTA countries released a report, "Migrant Worker Rights in North America." In addition, the U.S. Department of Labor has expanded a bilateral program with Mexico to inform migrant workers in the United States of their rights.

#### **iii. NAFTA and the Environment:**

In 2011, the Parties continued their efforts to ensure that trade liberalization and efforts to protect the environment are mutually supportive. The FTC's *ad hoc* working group of senior trade officials initiated work on enhancing the working relationship between the FTC and the North American Commission for Environmental Cooperation (CEC) across relevant North American trade and environment issues. The CEC also continued its work on these issues through the implementation of its 2011 Operating Plan. (*See Chapter IV.A. for additional information*)

In November 1993, Mexico and the United States agreed on arrangements to help border communities with environmental infrastructure projects in furtherance of the goals of the NAFTA and the North American Agreement on Environmental Cooperation. The Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADB) are working with communities throughout the United States-Mexico border region to address their environmental infrastructure needs. As of September 30, 2011, the NADB had contracted a total of \$1.5 billion in loans and/or grant resources to partially finance 169 infrastructure projects certified by the BECC with an estimated cost of \$3.8 billion.

## **9. Oman**

The United States-Oman Free Trade Agreement, which entered into force on January 1, 2009, complements existing FTAs to promote economic reform and openness in this region. Implementation of the obligations contained in the comprehensive agreement will generate export opportunities for U.S. goods and services providers, solidify Oman's trade and investment liberalization efforts, and strengthen intellectual property rights protection and enforcement.

The central oversight body for the FTA is the United States-Oman Joint Committee (JC), chaired jointly by USTR and Oman's Ministry of Commerce and Industry. The second meeting of the JC is expected to take place in the first quarter of 2012. The two governments expect to discuss a broad range of trade issues, including efforts to increase bilateral trade and investment levels, possible cooperation in the

broader MENA region, and additional cooperative efforts related to labor rights and environmental protection.

## **10. Peru**

### **a. Overview**

The United States-Peru Trade Promotion Agreement (PTPA) entered into force on February 1, 2009.

The United States' two-way goods trade with Peru was an estimated \$14.7 billion in 2011, with U.S. goods exports to Peru totaling \$8.4 billion.

The PTPA eliminates tariffs and removes barriers to U.S. services, provides a secure, predictable legal framework for investors, and strengthens protection for intellectual property, workers, and the environment. The PTPA is the first agreement in force that incorporates groundbreaking provisions concerning the protection of the environment and labor rights that were included as part of the May 10, 2007 bipartisan Congressional-Executive agreement on trade.

### **b. Elements of the PTPA**

#### **i. Operation of the Agreement**

The PTPA's central oversight body is the United States-Peru Free Trade Commission (FTC), comprised of the U.S. Trade Representative and the Peruvian Minister of Foreign Trade and Tourism or their designees. The FTC is responsible for overseeing implementation and elaboration of the PTPA. The second FTC was convened on July 13, 2011 in Lima, Peru. At the FTC meeting, officials discussed bilateral trade and investment and economic issues of mutual interest, as well as the administration of the PTPA. Both governments acknowledged the progress over the last year to implement the commitments under the Agreement, and discussed a plan to effectively monitor implementation of, and compliance with, environmental and labor obligations. Officials also discussed intellectual property, remanufactured goods, and agricultural biotechnology. Additionally, the Parties held the first meeting of the small and medium sized enterprises (SMEs) working group and discussed how to further enhance the ability of SMEs to capitalize on the benefits of the PTPA. The Commission agreed to hold the third meeting of the FTC in the United States in 2012.

#### **ii. Labor**

USTR continues to engage with the government of Peru to review progress on the implementation of the PTPA's labor provisions. With trade capacity building funds, USAID is implementing programs to improve the enforcement capacity of the Peruvian Ministry of Labor and to strengthen worker organizations and educate workers on their labor rights.

On December 29, 2010, the U.S. Department of Labor received a public submission from the Peruvian National Union of Tax Administration Workers under the PTPA Labor Chapter. The submission alleges that the GOP has failed to live up to its commitments under Article 17.2.1 of the PTPA by not effectively recognizing the right to collective bargaining at the National Superintendency of Tax Administration. The U.S. Department of Labor accepted the submission for review on July 25, 2011, and is currently in the process of drafting a report that summarizes the proceedings and provides any findings and recommendations, including whether the United States should request consultations with Peru under the PTPA.

### **iii. Environment**

The Parties have continued their work to ensure the proper implementation of environmental obligations under the PTPA Environment Chapter and the Annex on Forest Sector Governance. Peru had an additional 18 months from entry into force of the PTPA to implement some of the obligations under the Forest Sector Annex. Since ratification of the PTPA in December 2007, Peru has made changes to its legal and regulatory regimes to implement its environmental obligations. For example, with extensive participation from the United States, Peru amended its Criminal Code to increase penalties for forest, wildlife, and environmental crimes. Peru also created a Ministry of Environment and a separate, independent entity to supervise forestry resources (OSINFOR).

A major advancement in full implementation of Peru's environmental obligations was achieved in July 2011, when President Alan Garcia signed a new Forestry and Wildlife Law. Peru is currently working on the implementing regulations which should bring the Law into force in 2012.

On April 27, 2011, the United States and Peru convened the second meeting of the Environmental Affairs Council (EAC). At the EAC meeting, officials discussed implementation of the PTPA's Environment Chapter and Annex on Forest Sector Governance, and how to ensure proper monitoring of, implementation of, and compliance with, the Chapter and Annex obligations. Both governments acknowledged the progress and collaborative work that has taken place since entry into force of the PTPA. A public session of the EAC was held where representatives of the U.S. Trade and Environment Policy Advisory Committee as well as other stakeholders exchanged views with USTR and other Federal agency officials about implementation of the Environment Chapter.

On April 27, 2011 and July 14, 2011, the two governments convened the second and third meetings of the United States-Peru Forest Sector Subcommittee in Washington, DC and Lima, Peru, respectively. The Subcommittee serves as a forum for the Parties to exchange views and share information on any matter arising under the PTPA's Annex on Forest Sector Governance. The Parties agreed to continue working together to ensure that Peru completes the necessary steps to fully implement its obligations under the Annex. Additionally, both meetings of the Subcommittee included a public session for civil society and other stakeholders. The sessions provided stakeholders with an opportunity to raise concerns, suggest items to be addressed in future meetings, and provide advice on issues related to implementation of the Annex.

### **iv. Trade Capacity Building**

The Committee on Trade Capacity Building held its first meeting in March 2009 in Lima, Peru. This Committee is charged with seeking the prioritization and coordination of assistance to support effective implementation of the PTPA and to adjust to more liberalized trade. To this end, Peru presented a preliminary national trade capacity building strategy to address these objectives, highlighting areas such as telecommunications, intellectual property and agricultural standards. USAID worked closely with its Peruvian counterparts to design activities that respond directly to these objectives. USAID launched a trade capacity building project in July 2010 that involves working with several Peruvian ministries and agencies to assist with the implementation of the PTPA and facilitate trade. Among other activities, the program addresses labor, intellectual property, trade facilitation, telecommunications, the environment, and sanitary and phytosanitary matters. These activities continued through 2011 and are already showing results. Simplified customs procedures are yielding cost and savings results, as has a website on administrative procedures under a project to simplify operating license procedures in twenty municipalities. Among other things, the project conducted a forum on counterfeit medication and

prevention measures, and produced studies on telecommunications implementation and regulatory weaknesses. The Committee plans to have its next meeting in 2012.

## **11. Singapore**

The United States-Singapore Free Trade Agreement (FTA) has been in force since January 1, 2004. Two-way goods trade with Singapore totaled \$49.1 billion in 2011, up 55 percent from 2003 (the year before the FTA's entry into force). U.S. goods exports were \$31.7 billion, up 91 percent from 2003, and U.S. goods imports were \$17.4 billion, up 15 percent from 2003. In 2011, the United States had an estimated \$14.3 billion trade surplus in goods, and \$6.1 billion trade surplus in services with Singapore.

The United States and Singapore held regular consultations throughout 2011 and have scheduled the seventh annual FTA review for early 2012. During the ongoing consultations, the two governments agreed that implementation remains on track, and focused their discussions on ways to deepen the bilateral relationship. In 2011, the two sides discussed a range of issues covered by the FTA, including trade in textiles and apparel, restrictions on imports of U.S. beef, protection of intellectual property rights, and new requirements for pay television companies to cross-carry content from competing providers.

The two sides also discussed their continued environmental cooperation efforts. In mid-2011, a team from the National Environment Agency of Singapore participated in a study tour hosted by the U.S. Environmental Protection Agency to exchange ideas regarding the latest advances in air quality monitoring, modeling, and forecasting. Later in the year, representatives from Singapore participated in an economy, energy, and environment study tour where they interacted with officials from the Environmental Protection Agency, the Department of Commerce, the Department of Energy, the Department of Labor, and the Small Business Administration. During the workshop, government officials shared innovative policies and programs that promote cleaner production and energy efficiency, particularly within the private sector.

The two countries took advantage of opportunities during the year to discuss issues and areas of ongoing labor cooperation. In addition to engagement with Singapore through the negotiations of the labor provisions of the Trans-Pacific Partnership Agreement, labor officials from both governments continued their collaboration on areas in which Singapore's Ministry of Labor has expressed an interest. For example, the U.S. Department of Labor facilitated a visit to Singapore by an expert from the Federal Mediation and Conciliation Service, to discuss the U.S. system for mediating collective bargaining disputes and improving labor management relations.

## **B. Other Bilateral and Regional Initiatives**

### **1. The Americas**

The United States continues to implement, enforce, and benefit from four FTAs with the following countries in the Americas: Canada and Mexico under the NAFTA; Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua under the CAFTA-DR; Chile; and Peru. Highlights of USTR's FTA focused activity in this region during 2011 included: successful FTC meetings under the United States-Peru Trade Promotion Agreement; the United States-Chile FTC; the NAFTA, the first and successful CAFTA-DR FTC meeting and two CAFTA-DR Vice Ministerial meetings; and other ongoing efforts to manage implementation issues with our FTA partners. During 2011, USTR placed additional emphasis on implementation of the labor and environment commitments under these FTAs. (*Further details on USTR's implementation and enforcement activities associated with these FTAs can be found in Chapter III. A.*)

### **a. Congressionally Approved Free Trade Agreements**

On October 12, 2011, Congress passed, and on October 21, 2011, President Obama signed into law legislation approving the United States-Colombia Trade Promotion Agreement (the “Agreement”), securing a commercial partnership with a key ally whose economy is the third largest in the Central and South American region. Bipartisan support for the Agreement in the U.S. Congress was made possible by the efforts of the Obama Administration and the Colombian government to address a number of labor concerns. These concerns included insufficient protection of labor rights under Colombian laws and regulations, violence against Colombian labor activists and union members, and inadequate efforts to bring to justice those responsible for such violence. The Colombian Action Plan Related to Labor Rights announced on April 7, 2011, called for major, swift, and concrete steps by the Colombian government, most of which it has since taken. In addition, successful implementation of key elements of the Action Plan is a precondition for the Agreement to enter into force. To assess progress in implementing the Action Plan, the U.S. and Colombian governments will maintain intensive engagement at both technical and senior levels. The U.S. Government has begun cooperative work with the Colombian government to ensure that Colombia is in compliance with those obligations of the Agreement that will take effect on the day the Agreement enters into force.

Also on October 12, 2011, Congress passed, and on October 21, 2011, President Obama signed into law legislation approving the United States-Panama Trade Promotion Agreement (the “Agreement”). The bipartisan support for the Agreement was made possible by the efforts of the Obama Administration and the Panamanian government to address a number of issues relating to its tax and labor regimes. On labor, Panama undertook a series of administrative actions beginning in 2009 to further strengthen its labor laws and labor enforcement in the areas of subcontracting, temporary workers, employer interference with unions, bargaining with non-union workers, strikes in essential services, and labor rights in the maritime sector. In 2011, Panama reformed its labor laws to eliminate restrictions on collective bargaining for companies less than two years old and eliminated restrictions on collective bargaining and exemptions allowing for the use of temporary workers in the Barú Special Economic Zone and the Export Processing Zones. In terms of its tax regime, Panama has entered into a Tax Information Exchange Agreement with the United States, which enables Panama to provide the U.S. Government with the information it needs to enforce U.S. tax laws with respect to Panamanian business entities and financial accounts. Panama has also concluded tax treaties with a number of other countries. The U.S. Government has begun cooperative work with the Panamanian government on implementing the Agreement, reviewing the relevant laws and regulations to ensure that Panama is in compliance with those obligations of the Agreement that will take effect on the day the Agreement enters into force.

### **b. Trade and Investment Framework Agreements and other Bilateral Trade Mechanisms**

USTR chaired bilateral meetings with non-FTA partners in the Americas to discuss market opening opportunities, including improved access for small and medium-sized businesses, and resolving trade issues with those governments. During 2011, USTR met with the government of Paraguay under the United States-Paraguay Joint Commission on Trade and Investment and with the government of Uruguay under the United States-Uruguay Trade and Investment Agreement (TIFA) and made progress toward solving outstanding trade problems and creating more comprehensive trade policy dialogues. Highlights included:

- The United States exchanged ideas with the government of Paraguay on a number of bilateral issues of mutual interest at an October 12-13, 2011 United States-Paraguay Joint Commission on Trade and Investment meeting in Washington. The United States and Paraguay discussed ongoing work under a bilateral Memorandum of Understanding (MOU) on intellectual property

rights issues, which enumerates Paraguay's commitments to implement institutional and legal reforms and to strengthen intellectual property rights enforcement and prosecution. The previous MOU was scheduled to terminate at the end of 2011; however, through an exchange of letters, the U.S. and Paraguayan governments extended it through April 2012. Talks are underway to extend the MOU for several years past April 2012.

- At an October 31, 2011 meeting in Washington of the United States-Uruguay Trade and Investment Council under the TIFA, the United States exchanged ideas with Uruguay on a variety of bilateral economic topics, including sanitary and phytosanitary issues affecting trade in agricultural goods, intellectual property protection, and continued implementation of two TIFA protocols on trade facilitation and public participation in trade and environment.

### **c. Other Priority Work**

The United States continued its engagement with other countries in the region aimed at fostering bilateral trade relations and resolving trade problems during 2011. Highlights of USTR's other priority activities in the region include:

#### *Mexico:*

- In May 2010, President Obama and Mexican President Calderón agreed to create a High Level Regulatory Cooperation Council (HLRCC), which would work to “increase regulatory transparency, provide early warning of regulations with potential bilateral effects, strengthen the analytic basis of regulations, and help make regulations more compatible.” The HLRCC met in August 2011 to develop its work plan.
- USTR worked with the U.S. Department of Transportation to resolve the longstanding dispute with Mexico concerning cross-border trucking services. As a result of these efforts, in 2011 Mexico first reduced, and then suspended in full, retaliatory duties on an array of U.S. products such as apples, certain pork products, and personal care goods. Mexico's retaliatory tariffs had been in place since 2009.

#### *Canada:*

- In February 2011, U.S. President Barack Obama and Canadian Prime Minister Stephen Harper announced two initiatives to ensure that the vital economic partnership between the United States and Canada continues to be a cornerstone of our economic competitiveness and security. Since the leaders' announcement, representatives from across the United States government worked with their Canadian counterparts to formulate the Beyond the Border (BTB) Action Plan and the Regulatory Cooperation Council (RCC) Action Plan, both of which were released in December 2011. Together, these initiatives will build on well-established bilateral cooperation on trade, investment, emergency preparedness, security, and defense.
- The United States encouraged Canada to make the enactment of copyright legislation that addresses the challenges of piracy over the Internet, including by fully implementing the WIPO Internet Treaties, a priority for its new government. The United States continues to encourage Canada to provide for deterrent level sentences to be imposed for IPR violations, as well as to strengthen enforcement efforts, including at the border. Canada should provide its customs officials with *ex officio* authority to stop the transit of counterfeit and pirated products through its territory. U.S. stakeholders have also expressed strong concerns about Canada's administrative

process for reviewing the regulatory approval of pharmaceutical products, as well as limitations in Canada's trademark regime.

- In 2011, the United States and Canada entered into discussions on the extension of the 2006 Softwood Lumber Agreement (SLA). Article XVIII of the SLA provided that the SLA would remain in force until 2013, unless extended for two years by agreement of the Parties. On January 23, 2012, the United States and Canada signed a two-year extension of the SLA, so that the SLA will be in effect through October 12, 2015.
- The United States continues to enforce the SLA:
  - In 2009, an LCIA tribunal upheld U.S. claims that Canada failed to calculate export quotas properly and determined that in order to compensate for the breach, CN \$68.26 million (CN \$63.9 million, plus CN \$4.36 million in interest) should be collected through the imposition of an additional 10 percent export charge, based upon the value of the merchandise, on exports of softwood lumber to the United States. This amount was collected in June 2011.
  - In 2008, the United States requested arbitration over several provincial assistance programs that appeared to provide subsidies to Canadian producers in circumvention of the SLA. In 2011, an LCIA tribunal found that certain provincial programs in Quebec and Ontario breached Canada's obligations under the SLA. This finding resulted in the imposition of an additional 0.1 percent export charge on softwood lumber products from Ontario, and a 2.6 percent export charge on softwood lumber products from Quebec. The additional charges are expected to result in the collections of \$1.56 million and \$57.84 million, respectively. The additional duties began to be collected in March 2011.
  - In January 2011, the United States commenced a third arbitration under the SLA seeking compensatory adjustments for the under pricing of timber harvested from public lands in the interior region of British Columbia. The hearing in this arbitration is scheduled for the last week of February 2012.
  - As a result of the 1998 United States-Canada Record of Understanding on Agricultural Matters, the United States-Canada Consultative Committee on Agriculture (CCA) and the Province/State Advisory Group were formed in 1999 to strengthen bilateral agricultural trade relations and to facilitate discussion and cooperation on matters related to agriculture. The CCA met in May 2011, and December 2011 to reinforce the close working relationship between the two governments and their respective agricultural sectors.
  - The United States has had longstanding concerns about the monopolistic marketing practices of the Canadian Wheat Board. In December 2011, Canada passed the *Marketing Freedom for Grain Farmers Act*, which is designed to transition the Canadian Wheat Board from a crown corporation to a commercial entity over a period of five years.

#### *Brazil:*

- In June 2010, the United States and Brazil signed a framework agreement to avert the imposition of countermeasures of more than \$800 million on U.S. goods, services and intellectual property rights stemming from WTO rulings against certain U.S. domestic cotton support programs and export credit guarantees. The Framework outlines a way forward for the United States and Brazil to work towards a permanent resolution of these longstanding issues.



The United States and Brazil met quarterly in 2011 under the Framework. *(See Chapter II.H.b. for additional information)*

- In March 2011, Ambassador Kirk accompanied President Obama on an official visit to Brazil to meet with newly elected President Dilma Rousseff and key members of her Administration. Presidents Obama and Rousseff highlighted the existing strong bilateral ties between the United States and Brazil, and discussed topics of bilateral, regional and global interest. They also agreed to expand cooperation in several areas, including trade and investment. Ambassador Kirk and Brazilian Minister of Foreign Relations Antonio Patriota signed the Agreement on Trade and Economic Cooperation, which creates a new bilateral trade dialogue with Brazil that provides a framework to deepen our cooperation on a number of issues of mutual concern, including innovation, trade facilitation, and technical barriers to trade. This agreement represents a significant achievement and is expected to expand our trade and investment relationship and become a foundation for cooperation in other trade fora.

*Costa Rica:*

- Costa Rica opened its market for mobile phone services, issuing licenses to two companies to compete with the former state-owned monopoly, in a much-anticipated breakthrough achievement required under the CAFTA-DR Agreement. This market opening also generates new opportunities for U.S. exports and employment by U.S. cell tower companies operating in Costa Rica.

## **2. Europe and the Middle East**

USTR's Office of Europe and the Middle East coordinates policy towards, and manages bilateral trade relations with, the European Union (EU) and its 27 Member States, non-EU European countries, Russia and certain of its neighbors, the Middle East, and North Africa. Priority activities in 2011 included: building initiatives in the Middle East and North Africa (MENA) to support ongoing political and economic reforms and trade and investment integration, including through the implementation of FTAs, BITs, and TIFAs; strengthening United States-EU trade relations to promote shared interests while addressing chronic and emerging EU barriers to U.S. exports; integrating Russia and other countries into the global trade community through completing negotiations for membership in the WTO; and working with countries wherever possible, through TIFAs and other arrangements, to resolve trade concerns, expand trade and investment opportunities, and foster commercial and trade policies grounded in the rule of law.

### **a. New Approaches to Engagement with the Middle East and North Africa**

The revolutions and other changes that swept through MENA in 2011 prompted a comprehensive reevaluation of U.S. trade and investment policies toward this critical part of the world. In response to these events, USTR coordinated with other Federal agencies, outside experts, and stakeholders in both the United States and MENA partner countries to develop a trade and investment initiative to spur job growth and enhance regional trade. To pursue this initiative, USTR re-launched its TIFA with Tunisia, setting up specific working groups to develop the means of increasing trade and investment, and pursued similar initiatives with Egypt. USTR is also working in collaboration with EU and MENA trading partners to promote common interests in the stability and prosperity of the region.

The United States continued to implement, monitor, and enforce its FTAs with Bahrain, Jordan, Israel, Morocco, and Oman, which have produced export gains for U.S. producers. (*See Chapter III.A. for additional information*)

In 2011, USTR led several bilateral meetings under these frameworks, achieving notable progress toward solving outstanding trade issues and fostering effective trade dialogues with partner countries. The dramatic developments in certain countries in the region, most notably Egypt, Tunisia, and Libya, have provided new opportunities for engagement. In 2011, USTR revived its TIFA consultations with Tunisia under the new Tunisian government.

The United States has increased its engagement with the Gulf Cooperation Council (GCC) and its six member states (Saudi Arabia, United Arab Emirates, Bahrain, Oman, Qatar, and Kuwait), as the GCC continues to develop as a regional organization, aiming to harmonize standards, import regulations, and conformity assessment systems affecting U.S. trade.

### **b. Deepening U.S.-EU Trade Relations**

The U.S. trade and investment relationship with the EU is the largest and most complex economic relationship in the world. Transatlantic trade flows (goods and services trade plus earnings and payments on investment) averaged \$4 billion each day through the first three quarters of 2011. The total stock of transatlantic investment exceeded \$3 trillion in 2010. These enormous trade and investment flows are a key pillar of prosperity in the United States and Europe, and countries around the world benefit from access to the markets, capital, and innovations of the transatlantic economy.

In 2011, USTR and other agencies interacted extensively with counterparts in the major EU governing institutions (the European Commission, the European Parliament, and the European Council) and with EU Member State governments on a number of trade policy priorities:

- *Launching of High Level Working Group on Jobs and Growth:* During their November 28 Summit meeting, President Obama and EU leaders established a High Level Working Group on Jobs and Growth (HLWG) that will identify and assess options for generating new transatlantic trade and investment in support of increased exports and jobs. The HLWG will be co-chaired by U.S. Trade Representative Ron Kirk and European Union Trade Commissioner Karel De Gucht. It will report to U.S. and EU leaders on its conclusions and recommendations throughout 2012.
- *Intellectual Property:* USTR engaged the EU on several important IPR issues during 2011, including identifying shared goals and strategies for promoting strong IPR protection and enforcement in key third country markets and international organizations. The United States and the EU worked closely together to bring the Anti-Counterfeiting Trade Agreement (ACTA) to conclusion, with the United States signing, and the European Commission obtaining authorization to sign, the Agreement in 2011. Through a variety of bilateral, plurilateral, and multilateral initiatives, the United States continued to promote and protect access to foreign markets for U.S. producers whose products use trademarks and generic terms, working to avoid problems created by the EU's expansive approach to its "geographical indications" system of providing intellectual property protection for agricultural and food products. USTR also led engagement aimed at promoting strong IPR protection and enforcement throughout Europe, including in the Czech Republic, Hungary, and Poland (three countries that were taken off the Special 301 Watch List in 2010) and through the strong regulatory measures to combat piracy on the Internet adopted in Italy and Spain.

- *Science-Based Regulation:* USTR and the U.S. Mission to the EU played an important role in informing the debate around EU legislation that could have banned the import or sale of food products derived from cloned livestock or their conventionally reproduced offspring, which would have caused severe damage to United States-EU farm trade. USTR also continued to lead U.S. engagement with the EU, both in Brussels and in meetings of the WTO Dispute Settlement Body, over regulations restricting imports of several major U.S. food and agricultural products, including products of agricultural biotechnology. (*See Chapter V.A. for additional information*)
- *Enlargement Compensation Negotiations:* The United States and the EU concluded long running negotiations under WTO rules regarding tariff compensation owed by the EU to the United States in connection with the enlargement in 2007 of the EU to include Bulgaria and Romania. Adoption of the resulting agreement by the two parties remained pending at the end of 2011.
- *Joint Efforts on Shared Concerns in Third Country Markets:* The United States and the EU collaborated during 2011 on the development and implementation of joint strategies to address market access and other trade-related problems of common concern in major emerging markets and other countries, including China, Russia, Japan, and Ukraine.
- *Joint U.S.-EU Promotion of Trade- and Investment-Related Reforms/Best Practices:* In 2011, the United States and the EU explored new avenues for cooperation in promoting trade and investment related reforms in the Middle East and North Africa. Initial areas of focus included support for small and medium sized enterprises (SMEs), regional integration, and trade facilitation. The United States and the EU also worked together to promote the April 2011 Trade Principles for Information Communication Technologies Services Trade in the WTO Committee on Trade in Services and in bilateral engagements with third countries.
- *Transatlantic Economic Council (TEC):* Under the TEC umbrella, USTR and other agencies collaborated with the EU during 2011 on several initiatives, including agreeing on a set of regulatory best practices aimed at reducing non-tariff barriers to trade; implementing a work plan on trade and other policy issues influencing access to industrial raw materials; and conducting two major exchanges on “best practices” for SMEs and their participation in international trade. A United States-EU Investment Working Group, which will look at bilateral and third-country investment issues, was launched during the summer and met for the first time in October 2011. During its November 29, 2011 meeting, the TEC reviewed progress on these initiatives and launched several other cooperative initiatives that have the potential to reduce existing non-tariff barriers (NTBs) or preempt future ones. The TEC agreed to establish a new dialogue on nanotechnology, aimed at preventing the adoption of unnecessarily divergent regulations and standards which could damage trade in this critical emerging sector. It launched an unprecedented effort to promote regulatory and standards cooperation in the emerging electric vehicles sector.

### **c. Recent Successes and New Challenges in the United States-Russia Trade Relationship**

In November 2011, culminating 18 years of negotiations, Russia concluded its negotiations on acceding to the WTO. On December 16, the WTO Ministerial Conference adopted the terms and conditions of Russia’s accession and extended an invitation to Russia to join the WTO. Russia will now undertake its domestic legislative procedures to ratify the package. Thirty days after it informs the WTO that it has completed that process, it will become a WTO Member. The steps Russia has taken in these negotiations, and will take as a WTO Member, will improve the environment for trading with, and investing in, Russia. Russia is undertaking enforceable market access commitments that will increase opportunities for U.S.

exporters of goods and services. In addition, Russia will be required to apply its trade regime consistent with WTO rules, and the United States will have access to the WTO's dispute settlement procedures to enforce those rules. The increased transparency and predictability that comes with Russia's WTO accession will also enhance Russia's investment environment. (*See Chapter II.K.6 for more information*)

Throughout 2011, USTR also worked directly with its counterparts in the Russian government to advance the bilateral trade and investment relationship. USTR promoted the full implementation of several bilateral agreements, dating from November 2006, covering such areas as the inspection of meat processing facilities, protection of IPR, and import licensing for products with cryptographic capabilities. USTR also opposed protectionist measures introduced by Russia's government, such as unjustified sanitary and phytosanitary (SPS) restrictions, more restrictive tariff-rate quotas, and higher tariffs on a range of U.S. agricultural exports. The United States has also continued to monitor the implementation of the Russia-Kazakhstan-Belarus Customs Union, and its planned evolution into the Common Economic Space.

The United States continued to raise concerns about Russia's need for enhanced protection of IPR, particularly in the area of piracy on the Internet. The Bilateral Intellectual Property Rights Working Group, established under the 2006 agreement between the U.S. and Russian governments, continued to be a forum for constructive and dynamic dialogue. In addition, USTR officials participated in meetings of various working groups established under the United States-Russia Bilateral Presidential Commission.

#### **d. Other Priority Trade Activities**

Formal trade and investment agreements provide the context for much of U.S. trade and investment policy engagement in Europe, the Middle East, and North Africa. However, the United States also engages with key countries and regions outside of these established frameworks to promote enhanced trade and investment ties, increased U.S. exports, the development of intraregional economic ties, and WTO accession. (*See Chapter II.K.6. for more information*) Notable activities in 2011 included:

- *Turkey:* U.S. bilateral economic ties with Turkey have grown steadily over the last 15 years. However, there is additional room for growth in trade given Turkey's continuing development as a market, as well as its emerging role as a regional business hub. Recognizing Turkey's importance as a trading partner, USTR and the U.S. Department of Commerce co-chair U.S. Government participation in a new forum for engagement on economic and trade issues, the Framework for Strategic Economic and Commercial Cooperation (FSECC). The FSECC aims to reduce barriers to bilateral trade and investment, create opportunities for U.S. workers, farmers, and firms, and otherwise enhance bilateral economic cooperation. The first formal ministerial level meeting of the FSECC co-chairs occurred in October 2010. The United States and Turkey focused their successful TIFA meeting in 2011 on efforts to resolve outstanding issues and foster new channels of cooperation in preparation for the next meeting of the FSECC, envisioned for early 2012.
- *Ukraine:* The United States engaged with the government of Ukraine to oppose the imposition of restrictions on exports of grain that harmed U.S. grain traders. The United States also continued to work with the government of Ukraine to improve the protection and enforcement of intellectual property rights, and to address concerns with the administration of Ukraine's customs regime.
- *Southeastern Europe:* In 2011, the United States continued to engage the countries of this region on a variety of trade issues, including WTO accession, U.S. preference programs, and IPR protection. In December, USTR hosted the Economy Minister of Serbia for a discussion that

focused on WTO accession and ways to promote increased bilateral trade between the United States and Serbia.

### **3. Japan, Korea, and the Asia-Pacific Economic Cooperation Forum**

#### **a. Japan**

##### *United States-Japan Trade Relations:*

The United States continued to engage Japan on a broad array of trade and trade-related issues throughout 2011, with the goal of expanding access to Japan's market. The United States and Japan launched the United States-Japan Economic Harmonization Initiative (EHI) as a forum for bilateral engagement on trade and economic issues. The EHI aims to contribute to economic growth through steps to harmonize regulatory and other approaches that help facilitate trade, address individual trade and business environment-related issues, and promote closer coordination on regional issues of common interest. The EHI complements the ongoing work of the United States-Japan Trade Forum, which met in January 2011 to discuss a range of bilateral issues and trade policy issues.

Through the EHI, Japan reported a range of important new measures taken during 2011 that help improve access for U.S. products and services to the Japanese market, including in sectors such as telecommunications, distribution, automobiles, and medical devices and pharmaceuticals, as well as on cross-cutting issues such as further strengthening intellectual property protection. The United States and Japan also worked on jointly developing a set of non-binding trade-related principles for information and communication technology (ICT) services. The principles, if widely adopted among other countries, will support the global development of ICT services, including Internet and other network-based applications that are critical to innovative electronic commerce, Internet search and advertising, data storage, and other services.

The United States continued to urge full resolution of longstanding bilateral irritants, including restricted access for U.S. beef, lack of a level playing field between Japan Post and private companies in the banking, insurance, and express delivery sectors, and limited access for U.S. automobiles.

The United States welcomed Prime Minister Noda's November 11, 2011 expression of Japan's intention to begin consultations with Trans-Pacific Partnership (TPP) countries towards joining the TPP negotiations. Following this announcement, USTR began close consultations with the U.S. Congress and domestic stakeholders, and sought public comments through a *Federal Register* notice. These steps started the process of assessing Japan's readiness to meet the TPP's high standards for liberalizing trade and to address specific issues of concern to the United States regarding barriers to agriculture, services, and manufacturing trade, including non-tariff measures.

In addition, the United States also worked closely with Japan to address shared trade concerns, including those in third country markets, bilaterally and multilaterally. The United States and Japan cooperated to conclude negotiations for the Anti-Counterfeiting Trade Agreement (ACTA), which eight ACTA negotiating partners signed on October 1, 2011. The ACTA will strengthen the international legal framework for effectively combating global proliferation of commercial scale counterfeiting and piracy, and deepen international cooperation to promote strong intellectual property rights (IPR) enforcement practices.

## **b. Republic of Korea**

### *U.S.-Korea Trade Agreement:*

In 2011, following an agreement in December 2010 that resolved outstanding issues, the Administration continued to build on extensive consultations with Members of the U.S. Congress and other stakeholders to produce strong bipartisan support for the United States-Korea (KORUS) trade agreement. On October 12, 2011, Congress passed legislation approving KORUS, and on October 21, 2011, President Obama signed the legislation into law. Shortly thereafter, on November 22, 2011, Korea's National Assembly also approved the agreement. Once it enters into force, the KORUS trade agreement will provide preferential access for U.S. businesses, farmers, ranchers, services providers, and workers to what is now the United States' seventh largest export market, help solidify the two countries' long-standing alliance, and underscore the U.S. commitment to, and engagement in, the Asia-Pacific region. The KORUS trade agreement will strengthen and expand ties with an important strategic partner in Asia, and is expected to increase annual exports of American goods by up to \$11 billion, supporting 70,000 American jobs from goods exports alone. The agreement provides for the elimination of tariffs on over 95 percent of industrial and consumer goods within 5 years and on nearly two-thirds of U.S. agricultural exports immediately, and will level the playing field and enhance market access for U.S. exporters, including those in the automotive sector.

In December 2011, the United States and Korea began to review both countries' laws and regulations in order to ensure that each country complies with its respective obligations under the agreement. Once this review process has successfully concluded and the agreement enters into force, USTR will monitor Korea's compliance with its obligations, and will actively enforce U.S. rights under the agreement.

### *United States-Korea Trade Relations:*

In addition to USTR's regular interaction with counterparts in the Korean government, formally scheduled bilateral trade consultation meetings are held to address bilateral trade issues as they emerge. These meetings, which USTR leads, and in which other U.S. international economic agencies participate, serve as the primary forum for discussing and resolving trade-related issues, and are augmented by a broad range of senior level policy discussions. In 2011, the United States and Korea held bilateral trade consultations on two occasions, in May and September, in which they discussed a number of bilateral trade issues, including measures to enhance copyright protection and to improve transparency for labeling electronic products.

Since Korea reopened its market to imports of U.S. beef in June 2008, it has provided important market access for U.S. beef and beef products from animals less than 30 months of age. From January through November 2011, U.S. exports of beef and beef products to Korea reached nearly \$618 million, making Korea the fourth largest U.S. beef export market.

The United States and Korea also cooperated extensively in a wide range of multilateral fora to advance opening markets. Korea was one of eight participants to join in efforts to strengthen international intellectual property rights (IPR) enforcement in negotiating the ACTA, signed on October 1, 2011. The ACTA will strengthen the international legal framework for effectively combating global proliferation of commercial-scale counterfeiting and piracy and deepen international cooperation to promote strong IPR enforcement practices. In APEC, the two economies worked together closely to achieve significant and concrete outcomes on a variety of initiatives to strengthen regional economic integration in the Asia-Pacific, including to address tariff and non-tariff barriers for environmental goods and services, and to strengthen good regulatory practices.

## c. APEC

### Overview

Since it was founded in 1989, the Asia-Pacific Economic Cooperation (APEC) forum has been instrumental in promoting regional and global trade and investment. In 2011, the United States hosted APEC for the first time since 1993, providing a unique opportunity to reduce barriers to U.S. exports and to more closely link our economy with the dynamic Asia-Pacific region. As host, the United States identified priority areas for APEC work in 2011: strengthening regional economic integration and expanding trade; promoting green growth; and advancing regulatory convergence and cooperation. In Honolulu, Hawaii, APEC Leaders committed to a series of practical, ambitious actions in these areas with the ultimate goal of achieving a seamless regional economy that will create more jobs, and expand opportunities for U.S. exporters, services providers, and workers, providing greater economic growth across the region.

In 2010, the 21 APEC member economies collectively accounted for 44 percent of world trade and 55 percent of global GDP. In 2011, United States-APEC total trade in goods was an estimated \$2.3 trillion. Total trade in services was \$317 billion in 2010 (latest data available). The significant volume of U.S. trade in the Asia-Pacific region underscores the importance of the region as a market for U.S. exports.

### 2011 Activities

*Strengthening Regional Economic Integration and Expanding Trade:* Supporting the President's goal of doubling exports in five years, the United States, as host of APEC in 2011, was able to gain agreement to reduce barriers to trade and investment in a number of areas. APEC Leaders agreed to address next-generation trade and investment issues, including through trade agreements and a free trade area of the Asia-Pacific. Specifically, APEC Leaders agreed to advance a set of policies to promote effective, non-discriminatory, and market driven innovation policy to establish a model for innovation in the region and prevent barriers from emerging to trade and investment in U.S. technology products and services in Asia-Pacific markets. APEC Leaders also agreed on areas of cooperation that could be included in our trade agreements to promote the participation of SMEs in global production chains. APEC Leaders also agreed to implement the APEC Cross Border Privacy Rules System to reduce barriers to information flows, enhance consumer privacy, and promote interoperability across regional data privacy regimes. APEC Leaders committed to show leadership to launch negotiations to expand the product scope and membership of the WTO Information Technology Agreement, which could create significant market enhancing opportunities for U.S. high technology companies.

To reduce the time, costs, and uncertainty of moving goods throughout the region, APEC economies agreed to establish commercially useful *de minimis* values that will result in the exemption of low value shipments from customs duties or taxes and that will further streamline entry documentation requirements. Some economies took the additional step of committing to establish *de minimis* values of at least \$100 for shipments entering their economies through a "pathfinder" commitment. APEC Leaders also placed greater emphasis on helping SMEs in 2011 by agreeing to undertake a set of specific actions to address top barriers facing small businesses in trading in the region. These actions will provide direct and practical benefits to small businesses, including by making it easier to register intellectual property, identify customs documentation requirements, and take advantage of preferential tariff rates through trade agreements. Building on APEC's tradition of promoting effective intellectual property rights protection and enforcement in the region, APEC Ministers adopted guidelines for effective intellectual property enforcement at the border and effective practices to address unauthorized camcording, which is the major source of pirated motion pictures world-wide. To improve food security, APEC Leaders reaffirmed their

commitment to a standstill on export restrictions. APEC also established the Policy Partnership on Food Security to further integrate the private sector into APEC's work to enhance food security in the region.

*Promoting Green Growth:* One of the Administration's top priorities as host of APEC this year was to promote green growth in concrete and practical ways that will foster environmental protection, create new jobs, and new export opportunities for our environmental businesses. When APEC Leaders met in Honolulu, they agreed to take several important and meaningful steps to advance green growth. Leaders committed to reduce applied tariffs on environmental goods to five percent or less by 2015, and to work in 2012 to develop a list of environmental goods on which tariffs will be cut. Economies also agreed to eliminate local content requirements that distort environmental goods and services trade, and refrain from imposing new ones. Finally, APEC Leaders made commitments related to transparency in government support and procurement policies, regulatory coherence, and duty free treatment of environmental goods in FTAs. Together, these commitments will lower the costs of the environmental goods and services in the region that are needed to reduce pollution, provide safe drinking water, and combat climate change.

APEC also agreed to increase transparency in the treatment of remanufactured goods and establish a "pathfinder" commitment to treat remanufactured goods like new goods, streamline procedures for the temporary importation of energy-efficient test vehicles, work to implement appropriate measures to prohibit trade in illegally harvested forest products, and establish an experts group to combat illegal logging and associated trade.

*Advancing Regulatory Convergence and Cooperation:* Building on efforts in the United States to improve the quality of regulations in order to boost productivity and job creation, while also protecting the environment and ensuring public health and safety, APEC Leaders committed to improve the quality of the regulatory environment in APEC economies. Specifically, they agreed to take steps by 2013 to implement good regulatory practices, including ensuring internal coordination of regulatory work, assessing regulatory impacts, and conducting public consultations. In addition, the United States and its partners undertook work in 2011 to prevent technical barriers to trade-related to emerging green technologies, including smart grid interoperability standards, green buildings, and solar technologies. To strengthen food safety systems and facilitate trade, an innovative public-private partnership was launched to create a Global Food Safety Fund at the World Bank to strengthen food safety collaboration.

Finally, APEC members agreed to promote regulatory convergence and cooperation in key sectors. APEC continued its work to assist implementation of the Globally Harmonized System of Classification and Labeling of Chemicals, and clarify aspects of implementation of the EU's regulation on Registration, Evaluation, Authorization, and Restriction of Chemicals. APEC also reached agreement on a strategic framework outlining a multiyear program of activities for achieving regulatory convergence for medical products by 2020, agreed to adopt measures to ensure transparency and stakeholder consultation in regulatory and health policy processes, launched work to address the growing problem of hospital acquired infections, and developed an Action Plan to reduce the economic burden of non-communicable disease through sharing of best practices and the establishment of innovative public-private partnerships. APEC agreed to expand the innovative Services Trade Access Requirements Database as a valuable tool for businesses to acquire information on regulatory requirements for a range of service sectors in APEC economies. APEC agreed to reduce unnecessary testing and to streamline paperwork associated with official certification requirements related to wine trade. Lastly, APEC committed to promote and adopt regulatory approaches that are transparent, science-based, consistent with international obligations, and to take into account, where appropriate, existing international standards with respect to innovative agricultural technologies.

*Supporting the Multilateral Trading System and Resisting Protectionism:* In 2011, APEC Leaders and Ministers issued strong statements of support for the underlying institutional strength and value of the



rules-based multilateral trading system embodied in the WTO. They also emphasized collective concerns regarding the impasse confronting the Doha Development Agenda (DDA), and agreed to look for fresh and credible approaches to the ultimate conclusion of the DDA. Leaders and Ministers also reaffirmed their commitment to keep markets open and avoid all forms of protectionism, as well as their commitment to refrain from raising new barriers to trade and investment through the end of 2015.

## **4. China, Hong Kong, and Taiwan**

### **a. China**

See 2011 USTR Report to Congress on China's WTO Compliance:  
[http://www.ustr.gov/webfm\\_send/3189](http://www.ustr.gov/webfm_send/3189)

### **b. U.S.-Hong Kong Trade Relations**

The United States continued its efforts to expand trade with Hong Kong, a Special Administrative Region of the People's Republic of China. The United States continued to press Hong Kong to open its market to U.S. beef and beef products, which have been restricted since December 2003. Hong Kong's market is currently open to deboned beef from animals less than 30 months of age. Hong Kong authorities conducted a verification visit to beef processing facilities in the United States in October 2009 and prepared a report based on their findings in August 2010. The United States will continue to engage with Hong Kong to establish science-based access for U.S. beef and beef products in 2012.

### **c. U.S.-Taiwan Trade Relations**

During 2011, the United States worked to expand opportunities for U.S. exports to Taiwan. Working level officials engaged Taiwan throughout the year under the United States-Taiwan Bilateral Trade and Investment Framework Agreement (TIFA) process on the range of issues affecting bilateral trade and investment ties. Despite these efforts, continuing concerns regarding Taiwan's shortcomings in meeting its bilateral obligations and additional concerns about whether certain of Taiwan's sanitary and phytosanitary measures are based on science made it impossible to hold a high-level meeting of the TIFA Council on Trade and Investment. Rebuilding confidence in Taiwan as a reliable trading partner will be critical to reenergizing the TIFA process, and the United States will engage Taiwan closely in 2012 to seek resolution of the high-priority policy concerns that have undermined our trade dialogue in recent years.

The United States continues to press Taiwan to address a number of U.S. concerns regarding Taiwan's sanitary and phytosanitary measures. Taiwan maintains a ban on the use of ractopamine, a feed additive that improves feed efficiency, increases meat yield, and reduces waste. Ractopamine is approved for use in the United States and many other countries. This restriction continues to cause disruption to U.S. exports of beef and pork to Taiwan, even though Taiwan's own risk assessment determined that there is no health risk associated with the use of ractopamine. In 2007, after Taiwan had found that there is no health risk and notified the WTO of its intention to establish a maximum residue level (MRL) for ractopamine, other factors, including pressure from domestic political constituencies, appear to have caused Taiwan not to move forward with implementing science-based measures. More broadly, Taiwan's failure to adopt internationally established pesticide and other agrochemical MRLs, or develop its own science-based MRLs in a timely manner, has resulted in rejections of various U.S. agricultural products, including fresh fruits and vegetables, grains, and oilseeds. Taiwan has made progress in reducing the backlog of MRL applications, but imports of U.S. agricultural products remain at risk of rejection for pesticides and other agrochemicals approved and widely used in the United States and internationally that

have not yet been reviewed and approved in Taiwan. The United States will continue to work closely with Taiwan in 2012 to resolve these systemic concerns.

The United States continued its efforts to encourage Taiwan to provide market access for the full range of U.S. beef and beef products in a manner consistent with World Organization for Animal Health (OIE) guidelines for Bovine Spongiform Encephalopathy (BSE), as well as with Taiwan's own risk assessment, which found that U.S. beef is safe. The United States continued to press Taiwan to comply fully with the science-based and OIE-consistent 2009 bilateral protocol that would have provided full market access for U.S. beef and beef products. On January 5, 2010, Taiwan's Legislative Yuan (LY) approved an amendment to Taiwan's Food Sanitation Act that had the effect of banning the import of ground beef and certain offals from the United States. This ban is inconsistent with Taiwan's obligations under the protocol. Taiwan authorities have also implemented a range of administrative measures that have disrupted trade and created uncertainty in the market. In particular, disruptions have occurred because of Taiwan authorities' failure to adhere to predictable inspection and testing practices that are appropriately focused on legitimate food safety concerns. The United States has made some progress in working with Taiwan to eliminate certain of these problematic administrative measures, but serious concerns remain. USTR will continue to press Taiwan to act in a manner consistent with science, as well as its obligations under the bilateral protocol, and to refrain from taking measures that overly burden trade in beef and beef products.

The United States also continued to engage Taiwan on issues related to fulfilling Taiwan's WTO Country Specific Quota (CSQ) for importation of U.S. rice, expressing concerns that Taiwan's ceiling price mechanism was non-transparent and causing unnecessary trade disruptions. In 2007 and 2008, public sector rice tenders for U.S. rice repeatedly failed due to Taiwan's ceiling price mechanism. Throughout 2009 and 2010, the United States worked with Taiwan to seek improvements to the rice import system, and to address the shortfalls in Taiwan's procurement of U.S. rice in 2007 and 2008. As a result of these efforts, it appears that Taiwan successfully filled the U.S. country specific tenders in 2009, 2010 and 2011. However, Taiwan has still not taken steps to address the shortfall in 2007 and 2008, and the United States continues to have concerns about the ceiling price mechanism.

Intellectual property rights protection and enforcement also continue to be important issues in the United States-Taiwan trade relationship. The United States recognizes Taiwan's continuing efforts to improve enforcement of IPR and has continued to deepen bilateral cooperation activities with Taiwan on these issues. In 2011, the United States provided training to Taiwan patent examiners and conducted other capacity building and information exchange activities. In April 2009, the LY amended the Taiwan Copyright Law to require Internet service providers (ISPs) to undertake specific and effective notice and takedown actions against online infringers, to avoid certain forms of liability for the infringing activities of users on their networks. The United States will continue to engage Taiwan on implementation of its ISP liability legislation, as ISPs and rights holders have been working to finalize an effective Code of Conduct to implement the notice and takedown provisions. Some music rights holders have expressed concerns about amendments passed in January 2010 to the Copyright Act and the Copyright Collective Management Organization Act. These amendments grant the Taiwan Intellectual Property Office the power to set royalty rates if a commercial arrangement cannot be reached. They also ban rights holders or collective management organizations from using commissioned agents to collect licensing fees, although this is a common and well-accepted industry practice. The theft and unauthorized transfer of proprietary technology by company employees to mainland Chinese competitors has raised concerns about the effectiveness of Taiwan's industrial espionage laws. The U.S. Government will continue discussions of these concerns with Taiwan in 2012.

Taiwan acceded to the WTO Agreement on Government Procurement (GPA) in July 2009. Taiwan estimates that 2,300 procurement contracts covered by the GPA awarded in 2010 have a total value of

approximately \$8.2 billion; of which 392 of these contracts valued at \$1.5 billion went to GPA members, including 162 contracts worth \$460 million to U.S. firms. While foreign companies have already begun to benefit from increased access to Taiwan's government procurement market, and Taiwan has made many important reforms, some U.S. companies have raised concerns relating to the transparency of Taiwan's procurement process, contract terms and conditions, as well as licensing and liability issues. The United States will continue to work closely with Taiwan on implementing international best practices in government procurement as Taiwan implements its obligations under the GPA.

The United States has also continued to engage Taiwan on concerns raised by the pharmaceutical and medical device industries that Taiwan's procedures for medical product pricing and reimbursement fail to adequately recognize the value of innovative medical products for patients in Taiwan. The United States encourages Taiwan to continue to engage in collaborative consultations with relevant stakeholders to consider improving such policies in order to better facilitate the development of innovative products and improve patients' access to such products. Taiwan enacted a number of reforms to their national health insurance system on January 7, 2011, and the United States will engage closely with Taiwan authorities as these reforms are implemented, to assess their potential impact on U.S. pharmaceutical and medical device manufacturers.

## **5. Southeast Asia and the Pacific**

### **a. Free Trade Agreements**

The United States continued to implement, monitor, and enforce its FTAs with Singapore and Australia. Both of these agreements have led to significant increases in U.S. exports to these countries. (*See Chapter III.A. for additional information*)

### **b. Trans-Pacific Partnership**

In December 2009, the United States announced its intention to enter into negotiations of the TPP, a high standard, Asia-Pacific trade agreement. The agreement is intended to create a platform for economic integration across the Asia-Pacific region, advance U.S. economic interests with the fastest growing economies in the world, and expand U.S. exports, which are critical to U.S. economic growth and the creation and retention of high paying, high quality jobs in the United States.

Six formal rounds of TPP negotiations were held in 2011. The United States and its eight TPP negotiating partners – Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam – continued their work to craft an agreement that addresses new and emerging trade issues and 21st century challenges. When completed, the TPP is expected to include provisions on cross-cutting issues not included in previous trade agreements such as: promoting connectivity to deepen the links of U.S. companies to the emerging production and distribution networks in the Asia-Pacific region; making the regulatory systems of TPP countries more compatible so U.S. companies can operate more seamlessly in TPP markets; and helping small and medium sized enterprises, which are a key source of innovation and job creation, participate more actively in international trade.

On November 12, 2011, the Leaders of the TPP countries met in Honolulu, Hawaii and announced their agreement on the broad outlines of the TPP Agreement. In their joint statement marking this milestone, the TPP leaders reaffirmed their commitment to finalizing a comprehensive, next-generation agreement that will enhance the competitiveness of all the TPP countries, and serve as a model for future free trade agreements. To that end, the TPP leaders committed to dedicate the necessary resources to complete the agreement as soon as possible.

The United States and its negotiating partners share a vision for the TPP that is predicated on the long term objective of expanding the group to additional countries across the Asia-Pacific region. At the APEC Leaders Summit in November 2011, Japan, Canada, and Mexico formally announced their interest in joining the TPP negotiations. The United States and other TPP countries welcomed their interest, and conveyed that potential new entrants must be able to meet the high standards agreed by all TPP negotiating partners, as well as to address a range of U.S. priorities. The Administration invited comments from the public on these potential new negotiating partners, and will begin engaging with these countries in 2012, in close consultation with the U.S. Congress and domestic stakeholders.

The Administration continued to consult closely with the U.S. Congress on all elements of the TPP negotiations in order to develop negotiating objectives consistent with both Administration and Congressional priorities and objectives. We will continue to work collaboratively with the U.S. Congress as the negotiations progress to ensure that our negotiating objectives best advance U.S. economic priorities, including enhancing economic growth and creating and retaining U.S. jobs.

### **c. Managing U.S.-Southeast Asia and Pacific Trade Relations**

Throughout 2011, the United States engaged bilaterally, regionally, and multilaterally to improve and expand our trade and investment relations with Southeast Asian and Pacific countries. In addition to meeting bilaterally under our Trade and Investment Framework Agreements (TIFAs) and other trade dialogues, the United States worked with countries of the Association of Southeast Asian Nations (ASEAN) to advance our discussions under the United States-ASEAN TIFA and to coordinate positions and approaches at APEC, the WTO, and other trade and investment forums.

During 2011, the United States held numerous high-level meetings, TIFA dialogues, and other bilateral exchanges with Southeast Asia and Pacific countries, including Brunei Darussalam, Cambodia, Indonesia, Malaysia, the Philippines, Thailand, and Vietnam. The United States sought in these meetings to resolve trade issues in such areas as customs, intellectual property protection and enforcement, market access for industrial and agricultural products, regulatory and other non-tariff barriers facing U.S. manufacturers and service suppliers, and other trade-related issues, including worker rights and protections. The United States also used these consultations to work with our trading partners in the region to monitor implementation of their WTO commitments and to coordinate economic assistance projects to support their implementation and reform efforts. The United States also used these meetings to discuss the potential interest of several countries, including the Philippines and Thailand, in potentially joining the Trans-Pacific Partnership (TPP), as well as to coordinate on ASEAN, APEC and other regional and multilateral issues.

In November, the United States and the Philippines signed a (customs administration and trade facilitation agreement), including specific commitments on simplified customs procedures and transparency of customs administration, demonstrating our countries' commitment to expanding our bilateral trade. The United States continued to work closely with the government of Laos to monitor progress and support the implementation of the United States-Laos Bilateral Trade Agreement, and to support Laos' ongoing negotiations to join the WTO.

### **d. The U.S.-ASEAN Trade and Investment Framework Arrangement**

With robust economies and a total population of about 600 million people, the 10 member countries of ASEAN represent a large and growing market for U.S. traders and investors. U.S. trade with the region continued to expand in 2011, with U.S. goods exports up 10 percent, and imports up 11 percent. The

ASEAN countries collectively are the fourth largest U.S. goods export market and fourth largest two-way goods trading partner.

The United States and ASEAN members concluded a TIFA in August 2006, and since then have been working to build upon already strong trade and investment ties to further enhance their economic relationship as well as promote ASEAN regional economic integration. In 2011, the United States and the ASEAN countries launched a new work program which builds on ongoing dialogues on trade facilitation, trade and the environment, trade finance, and standards, and introduces two new initiatives related to digital connectivity and the health care services sector. The United States and the ASEAN countries also agreed to organize a second road show of the ASEAN ministers to key U.S. cities, as well as a United States-ASEAN Business Forum in the ASEAN region in 2012 to expand commercial linkages and improve United States-ASEAN economic relations.

## **6. Sub-Saharan Africa**

### **a. Trade and Investment Relations**

For the last 11 years, the African Growth and Opportunity Act (AGOA), enacted in 2000, has been the cornerstone of the United States' engagement with sub-Saharan Africa on trade and investment. By providing duty-free entry into the United States for almost all products of beneficiary countries, AGOA has helped to expand and diversify two-way trade between the United States and sub-Saharan Africa, and helped to foster an improved business environment in many sub-Saharan African countries. As a result of a 2011 out-of-cycle review of Guinea, Niger, and Cote d'Ivoire, and the regular 2011 annual review of country eligibility, President Obama designated 40 sub-Saharan African countries to be eligible for AGOA benefits in 2012.

### **b. EAC Trade and Investment Partnership**

During the 2011 AGOA Forum in June in Lusaka, Zambia, U.S. Trade Representative Ambassador Ron Kirk proposed a new partnership between the United States and the East African Community (EAC) that would include the exploration of a regional investment treaty, creation of trade enhancing agreements in areas such as trade facilitation, and the development of stronger commercial engagement between the United States and the EAC. In November 2011, USTR led a U.S. delegation to Arusha, Tanzania, to discuss the United States' proposal and solicit views from the EAC.

The EAC Partner States include Burundi, Kenya, Rwanda, Tanzania, and Uganda. Total two-way goods trade between the United States and the EAC was an estimated \$1.5 billion in 2011, with \$955 million in U.S. goods exports and U.S. goods imports totaling \$535 million. Kenya was by far the United States' top trading partner within the EAC with two-way goods trade totaling \$829 million, followed by Tanzania with \$319 million, Rwanda with \$156 million, Uganda with \$143 million, and Burundi with \$48 million. Top U.S. exports to EAC countries were aircraft, machinery, and wheat. Top imports included apparel, coffee, nuts, and semi-precious stones.

### **c. Trade and Investment Framework Agreements**

The United States has Trade and Investment Framework Agreements with the following 11 countries or regional economic communities in sub-Saharan Africa: Angola, Ghana, Liberia, Mauritius, Mozambique,

Nigeria, Rwanda, South Africa, the Common Market for Eastern and Southern Africa (COMESA),<sup>29</sup> the EAC,<sup>30</sup> and the West African Economic and Monetary Union (also known by its French acronym, UEMOA).<sup>31</sup> USTR leads interagency discussions with TIFA partners on a wide range of trade and investment related issues. In addition to high-level Council on Trade and Investment (TIFA Council) meetings, which are held every one to two years, there is an ongoing dialogue with all TIFA partners that may include periodic working level meetings and digital video conferences on the implementation of the TIFA work plans. In 2011, the United States participated in four Council meetings with Liberia, Rwanda, South Africa, and COMESA.

#### **d. Liberia**

In August 2011, U.S. and Liberian officials met in Washington, D.C. to review progress in deepening the trade and investment relations under the TIFA. This was the third meeting of the U.S.-Liberian TIFA Council, which provides a high-level forum for advancing cooperation on bilateral trade and investment issues.

Deputy U.S. Trade Representative Demetrios Marantis and Liberian Minister of Commerce and Industry Miata Beysolow co-chaired the meeting, which examined the two governments' work together on a number of trade-related issues, including implementation of AGOA, trade capacity building, export diversification, trade and investment promotion, infrastructure issues, and Liberia's accession into the WTO.

In 2011, two-way goods trade between the United States and Liberia was \$323 million. U.S. goods exports to Liberia totaled \$193 million in 2011, up 1 percent from 2010. Top U.S. exports were vehicles, cereals, machinery, medical instruments, and iron and steel products. U.S. imports from Liberia totaled \$130 million, up 1 percent from 2010. Top imports from Liberia were rubber, wood, and art and antiques.

#### **e. Rwanda**

In December 2011, the U.S.-Rwanda bilateral investment treaty went into effect when U.S. Trade Representative Ron Kirk and Rwandan Minister of Trade and Industry François Kanimba exchanged treaty instruments of ratification, signed by President Obama and Rwandan Prime Minister Damien Habumuremyi.

Deputy U.S. Trade Representative Demetrios Marantis co-chaired the fourth meeting of the United States-Rwanda TIFA Council with Minister Kanimba in December 2011. The United States and Rwanda signed the TIFA and established the TIFA Council in June 2006. The TIFA Council meeting examined the two governments' joint work on a number of trade-related issues, including implementation of AGOA, agricultural trade and cooperation, export diversification, infrastructure issues, and Rwanda's progress towards regional integration within the EAC.

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<sup>29</sup> COMESA members are Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, and Zimbabwe.

<sup>30</sup> EAC members are Burundi, Kenya, Rwanda, Tanzania, and Uganda.

<sup>31</sup> UEMOA members are Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

Total two-way goods trade between the United States and Rwanda totaled \$156 million in 2011. U.S. goods exports to Rwanda were \$122.1 million, and U.S. goods imports from Rwanda totaled \$33.7 million. Top U.S. exports in 2011 were aircraft, pharmaceutical products, and machinery. Coffee comprised over 89 percent of U.S. imports from Rwanda in 2010. Other leading imports from Rwanda were pectates and baskets.

#### **f. South Africa**

In June 2011, Deputy U.S. Trade Representative Demetrios Marantis co-chaired, with South African Trade and Industry Minister Rob Davies, a meeting in Pretoria, South Africa under the auspices of the United States-South Africa TIFA Council. At the meeting, senior government officials discussed a full range of trade issues, including AGOA, the National Export Initiative, trade impediments, investment challenges, intellectual property rights, transportation issues, and regional integration. Following the TIFA meeting, Ambassador Marantis and Minister Davies met with U.S. and South African private sector executives on their interests and concerns relating to U.S.-South Africa bilateral trade and investment.

The United States-South Africa TIFA was signed on February 18, 1999. The TIFA established the TIFA Council, a high-level forum for consultative discussions on trade and investment related issues. The TIFA was active for a few years but was effectively put on hold, by mutual consent, when the United States-Southern African Customs Union (SACU) free trade agreement negotiations began in 2003, and had been inactive since then. In 2010, both sides agreed to reinvigorate the existing TIFA to enhance cooperation and regularize engagement on key bilateral trade and investment issues.

Total two-way goods trade between South Africa and the United States was valued at \$16.9 billion in 2010. U.S. exports to South Africa grew to \$7.3 billion in 2011, up 31 percent from 2010. Primary exports included machinery, vehicles and parts, precious stones, and electrical machinery. U.S. imports from South Africa reached \$9.6 billion in 2011, a 17 percent increase from 2010. Primary imports included precious stones and metals, vehicles and parts, and iron and steel. Of total U.S. imports from South Africa during the first 11 months of 2011, \$3.4 billion entered duty-free under AGOA/GSP, an increase from \$3.1 billion in 2010. The primary goods imported under AGOA/GSP were vehicles and parts, iron and steel, and inorganic chemicals.

#### **g. Common Market for Eastern and Southern Africa (COMESA)**

In September 2011, U.S. Trade Representative Ron Kirk co-chaired the seventh meeting of the United States-COMESA TIFA Council with COMESA Secretary General Sindiso Ngwenya. The TIFA Council meeting examined a number of trade-related issues, including implementation of AGOA, agricultural trade and cooperation, export diversification, intellectual property rights, infrastructure issues, and COMESA's progress towards regional integration. Following the government-to-government meeting, Deputy U.S. Trade Representative Demetrios Marantis co-chaired, with senior officials from the U.S. Government, COMESA and its member states, as well as representatives from the U.S. business community, including the Corporate Council on Africa, a roundtable discussion on advancing regional integration in Africa.

COMESA is the largest regional economic organization in Africa. Total two-way goods trade between the United States and COMESA countries was \$13.6 billion in 2011, with U.S. exports totaling \$9.1 billion, a 3 percent increase from 2010. U.S. imports from the COMESA region totaled \$4.5 billion in 2011, a 26 percent decrease from 2010. Egypt was the United States' top COMESA trading partner last year, with two-way trade between the countries totaling \$8.6 billion. Top U.S. exports to COMESA countries in 2010 were cereals, aircraft, machinery, and vehicles. Top imports were oil, apparel, and fertilizers.

## **7. South and Central Asia**

### **a. Advancing the United States-India Trade and Investment Relationship**

The United States-India Trade Policy Forum (TPF), created in 2005, serves as the principal bilateral forum for discussing trade and investment issues. Following a review by each government of ways to strengthen this forum, and building on steps taken in the preceding year, Ambassador Kirk and Indian Minister for Commerce and Industry Anand Sharma agreed in 2011 to revise the structure of the TPF to facilitate progress on trade and investment issues of interest to each country. The new, streamlined structure reflects recognition that key issues on the bilateral agenda increasingly cover more than one of the traditional categories of trade policy (such as goods, services, and intellectual property), and will help facilitate solutions that require the active engagement of multiple government agencies in each country. In the course of several meetings over 2011, Ambassador Kirk and Minister Sharma reaffirmed their commitment to the revised TPF as a vehicle for producing meaningful outcomes for stakeholders in both countries. Sustained constructive engagement with the government of India during 2011 contributed to lower tariffs for certain U.S. agricultural exports, removal of a ban on the export of cotton from India, renewed technical discussions on a Bilateral Investment Treaty, and significant revision of burdensome telecommunications security regulations that failed to meet India's stated security objectives.

### **b. Contributing to Regional Stability**

In support of top national security objectives in Afghanistan, Pakistan, and Iraq, in 2011, USTR strengthened engagement with all three countries as part of a broader effort to boost trade, employment, and sustainable development. USTR participated in the Trade and Investment Framework Agreement meeting with Afghanistan on December 11, 2011, which included a session with the private sector. The United States and Afghanistan agreed to create two committees under the TIFA focused on the empowerment of women and women entrepreneurs and on transparency and promoting public participation in decision-making. Both sides expressed an eagerness to begin work on this important initiative as soon as possible. The United States also expressed its support for Afghanistan's goal of acceding to the World Trade Organization as soon as possible.

In September 2011, USTR participated in the United States-Pakistan TIFA Council Meeting in Islamabad, Pakistan. USTR led a delegation of other U.S. Government agencies to Lahore, Pakistan where they met with private sector representatives and visited the Pakistan Institute of Fashion Design, to see firsthand how Pakistan is reforming its textiles and apparel sector. Working with other U.S. agencies, USTR participated in trilateral and other high level meetings with officials from Afghanistan, Iraq, and Pakistan. Key highlights from 2011 included:

- USTR and other agencies continued to seek passage of trade preference legislation, including Reconstruction Opportunity Zone (ROZ) legislation to provide duty-free benefits for certain products exported to the United States from Afghanistan and critical border areas of Pakistan. USTR also led discussions on how Afghanistan, Pakistan, and Iraq could increase use of existing trade benefits under the U.S. Generalized System of Preferences (GSP) program.
- USTR supported the implementation of the Afghanistan and Pakistan Transit Trade Agreement, and encouraged both sides to promptly resolve issues causing trade bottlenecks.
- Pakistan and the United States agreed to intensify engagement on trade and investment issues by focusing on addressing intellectual property protection issues as identified in USTR's 2011



Special 301 Report, and assisting women-owned businesses in Pakistan in order to empower this important sector of the economy.

- The United States agreed to continue its technical and advisory support for the accessions of Afghanistan and Iraq to the WTO.

### **c. Promoting National Reconciliation and Lasting Peace in Sri Lanka**

The United States and the government of Sri Lanka held the ninth TIFA Council Meeting in Washington, D.C. in November 2011. It was the third meeting of the TIFA Council since Sri Lanka's civil war ended in May 2009. The United States and Sri Lanka discussed market access and investment climate concerns, supporting war widows displaced by the civil war, and initiated capacity building initiatives on intellectual property rights and the U.S. GSP program.

### **d. Advancing U.S. Engagement with Central Asia**

USTR supported the Administration's strategy towards Central Asia by hosting the United States-Central Asia TIFA Council meeting in Washington, D.C. in September 2011, in order to bolster cooperation with the Central Asian countries of Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan in support of U.S. operations in Afghanistan (which participates in the TIFA as an observer), and to strengthen and diversify U.S.-Central Asia trade relations more broadly. The United States launched bilateral dialogues with each Central Asia TIFA partner to focus on country-specific issues, and the TIFA members agreed to establish a new mid-year meeting of a TIFA working group. The next Central Asia TIFA meeting will be held in 2012. The Parties hope to hold the meeting in the region.

The United States also participated in three bilateral meetings with Kazakhstani authorities to continue negotiations on rules and market access commitments for Kazakhstan's accession to the WTO. These negotiations resulted in a bilateral market access agreement on services with Kazakhstan in September 2011. USTR also reviewed Kazakhstan's efforts to bring its trade and investment regime into compliance with WTO rules in a number of areas including intellectual property, sanitary and phytosanitary measures impeding agricultural trade, and the operation of Kazakhstan's state-owned or state-controlled enterprises. Kazakhstan's customs union with Russia and Belarus was also discussed, including U.S. concerns about higher duties adopted by Kazakhstan under the common external tariff of the customs union, which entered into force on January 1, 2010. (*See also WTO accessions*).

### **e. Improving Trade and Investment Relations with Nepal**

On April 15, 2011 the United States and Nepal signed a TIFA and held the first TIFA Council Meeting. Both sides expressed interest in finding ways to improve the trade and investment relationship. Discussions included ways in which Nepal could better utilize the U.S. GSP program as well as reforms Nepal was undertaking with a view to creating a more favorable investment climate. Nepal asked for assistance in a number of sectors and the United States agreed to discuss ways in which it could provide technical assistance. USTR highlighted its concerns with Nepal's investment laws and policies and encouraged Nepal to undertake reforms to make it easier for investors to understand what is required to do business there. The next TIFA Council meeting will be held in Nepal later in 2012.