

IV. OTHER TRADE ACTIVITIES

A. Trade and the Environment

During the course of 2012, the Administration achieved significant results on trade and environment matters across multiple fronts, including through regional and bilateral trade initiatives. On the regional front, the United States worked with other APEC member economies to reach a groundbreaking agreement on a list of 54 environmental goods on which tariffs will be cut to 5 percent or less by 2015 – marking the first time that trade negotiations have produced a list of environmental goods for tariff cuts. Additionally, in the TPP negotiations, the United States continued to press for commitments to address conservation challenges, such as illegal trade in wildlife and marine fisheries issues, as well as commitments to liberalize trade in environmental goods and services. The Administration continued to prioritize implementation of the free trade agreements currently in force, and finalized implementation of the environment provisions of the agreements with Korea, Colombia, and Panama. In keeping with the increased integration of environmental considerations across multiple multilateral, regional, and bilateral fronts, this report includes an assessment of recent developments on trade and environment in specific sections devoted to these various fora.

1. Multilateral Fora

As described in more detail in the WTO section of this report, the United States has continued to explore fresh and innovative approaches to all aspects of the WTO's trade and environment work. The Administration also has sought to orient activities in the OECD Joint Working Party on Trade and Environment to focus on value-added contributions to ongoing WTO work, as well as strong analytical research on the interface between trade and clean energy policies.

USTR continues to participate in formulating and carrying out U.S. policy regarding various multilateral environmental agreements (MEAs) to enhance compatibility between activities under those agreements and U.S. trade policy. Examples include the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the International Convention for the Conservation of Atlantic Tunas, International Maritime Organization conventions, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the Convention on Biological Diversity and the Cartagena Protocol on Biosafety, and the Stockholm Convention on Persistent Organic Pollutants. In 2012, USTR participated actively in the Rio+20 process, where countries agreed on the importance of international trade in promoting sustainable development, and agreed to enhance transparency and reporting on harmful fisheries subsidies. USTR also took part in the United Nations Environment Program negotiations to develop a legally binding agreement on mercury. The mercury convention negotiations concluded in January 2013, and the new convention will be opened for signature in October 2013. USTR also continued to play an active role in the ongoing United Nations Framework Convention on Climate Change (UNFCCC) negotiations.

USTR also participated actively in the work of two international commodity agreements, to identify and pursue opportunities to facilitate increased international trade and sustainable development. In the International Tropical Timber Organization, USTR assisted Administration efforts to promote increased market transparency and to provide support for capacity building projects to facilitate tropical timber trade in the context of sustainable management of tropical forests. In the International Coffee Organization, USTR led Administration efforts to ensure strong implementation of the agreement (International Coffee Agreement 2007 which entered into force in 2011), which promotes development of a sustainable coffee sector.

2. Bilateral and Regional Activities

As described in more detail in the Bilateral and Regional Negotiations and Agreements section of this report, USTR ensured concrete achievements supporting green growth and trade during 2012. In September, APEC Leaders agreed on a list of 54 environmental goods on which they will cut tariffs to 5 percent or less by 2015. This historic outcome will lower the costs of important environmental technologies such as wastewater treatment filters and wind turbines, and will contribute to the Administration's goals to increase U.S. exports and expand green jobs domestically. These commitments in APEC have provided momentum on other key initiatives to liberalize trade in environmental technologies, including in the TPP and the WTO.

The United States also advanced its work to combat illegal logging and associated trade in the Asia-Pacific region at the inaugural meetings of a newly established APEC Experts Group charged with combating illegal logging and associated trade and promoting legal trade in forest products in the region. Additionally, USTR joined other agencies in participating in bilateral meetings with China and Indonesia under a separate Memorandum of Understanding with each country on combating illegal logging and associated trade. The meetings provided an opportunity to share detailed information on our respective efforts to combat illegal logging and associated trade and on potential areas of collaboration.

USTR also continued to pursue an ambitious set of environment proposals in the TPP negotiations, including with respect to public participation, effective enforcement of environmental laws, conservation of wildlife and wild plant species, disciplines on harmful fisheries subsidies, and promotion of environmental goods and services trade. Together, these U.S. proposals offer the opportunity to forge a new high standard for environmental provisions in trade agreements.

USTR was active during 2012 in monitoring implementation of environment provisions in free trade agreements (FTAs). In particular, USTR worked closely with Peru to advance implementation of the Annex on Forest Sector Governance under the United States-Peru Trade Promotion Agreement. USTR and other agencies continued to engage with Peru on the development of regulations to implement its new Forestry Law and on other aspects of Peru's ongoing efforts to further implement the Annex. In addition, USTR together with the U.S. State Department concluded negotiations with Peru on the terms of an agreement to establish an independent secretariat to consider citizen submissions which assert that a Party is failing to effectively enforce its environmental laws. As described elsewhere in this report (see Chapter III.A), USTR and other agencies carried out an in-depth review of a petition from a U.S. stakeholder, which raised concerns regarding certain shipments of bigleaf mahogany and Spanish cedar from Peru to the United States. The outcome of this review is a targeted bilateral action plan that will provide meaningful support to Peru's forestry reform efforts.

USTR convened environmental affairs councils and related fora under the Peru TPA and the CAFTA-DR to discuss, monitor, and ensure implementation of FTA environmental obligations. USTR also ensured that these meetings included sessions open to the public, consistent with our commitment to transparency. USTR also convened the TPSC Subcommittee on FTA Environment Chapter Monitoring and Implementation to consider the status of implementation of Environment Chapter commitments by our FTA partners and to develop a systematic plan for monitoring our FTA partners' implementation of, and compliance with, their obligations under the Environment Chapters of our FTAs.

B. Trade and Labor

The Administration's trade policy agenda includes a strong commitment to ensuring that workers and their families in America and around the world benefit from trade. The Administration has continued its

efforts to improve respect for labor rights and to increase monitoring and enforcement of trade agreement labor provisions. The Administration has also continued its effort to enhance U.S. Government engagement with trade partners on labor rights through the formal mechanisms of trade agreements, trade programs and other means. Labor issues were high on the agenda of commission meetings under existing FTAs, as well as meetings under Trade Investment Framework Agreements (TIFAs), and in multilateral fora, including the Asia Pacific Economic Cooperation (APEC) forum.

In 2012, the Administration successfully closed a GSP worker rights review of Sri Lanka after the government of Sri Lanka took specific steps to address the concerns arising out of the review, and a new TIFA committee on labor affairs was established to continue dialogue on labor issues. The Administration also continued to work closely with the government of Colombia in 2012 as Colombia implements the Action Plan Related to Labor Rights, which was announced in April 2011. The Administration, for instance, provided strong support for Colombia's newly established Labor Ministry and its greatly enhanced labor inspectorate. In the case brought against Guatemala under Chapter 20 (Dispute Settlement) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) for apparent violations of labor rights obligations, an arbitration panel was constituted and negotiations continued in an attempt to find a mutually agreeable resolution that would significantly improve labor law enforcement in Guatemala. The Administration also pursued high-standard labor obligations through the continuing negotiations of the Trans-Pacific Partnership (TPP).

As an essential component of the Administration's trade agenda, the Trade Adjustment Assistance (TAA) program assists American workers adversely affected by global competition and helps ensure that they are given the best opportunity to acquire skills and credentials to get good jobs. (*For additional information, see Chapter V.B.7.*)

1. Multilateral and Regional Fora

In the Ministerial Declaration adopted during the WTO Ministerial Conference in Singapore (1996), and reaffirmed in Ministerial Declarations adopted during Ministerial Conferences in Doha (2001) and Hong Kong (2005), the WTO Members renewed their commitment to the observance of internationally recognized core labor standards and took note of collaboration between the WTO and International Labor Organization (ILO) Secretariats. In September 2011, the WTO and the ILO jointly released "Making Globalization Socially Sustainable." The publication summarizes knowledge on themes related to the social dimension of globalization through contributions by academic experts who analyze the various channels through which globalization affects jobs and wages. (*For additional information, visit http://www.wto.org/english/res_e/publications_e/glob_soc_sus_e.htm.*)

The Administration has continued to promote the discussion of labor rights as one of the topics relevant to the effort to strengthen economic integration and to build high quality trade agreements in the Asia-Pacific region. In APEC, the United States has continued to support inclusion by APEC economies of labor and social issues in next generation trade agreements. In particular, in the APEC Committee on Trade and Investment, the United States is co-sponsoring with Korea and other economies a program to build the capacity of APEC economies to negotiate labor provisions in their respective trade agreements. (*For additional information on APEC, see Chapter III.B.3..*)

The Inter-American Conference of Ministers of Labor (IACML) is a meeting of the Western Hemisphere's labor ministers, held approximately every two years under the auspices of the Organization of American States to promote hemispheric cooperation on labor issues. The IACML responds to the labor mandates agreed to by heads of state in the Summit of the Americas process. (*For additional information on the IACML, visit http://www.sedi.oas.org/ddse/english/cpo_trab.asp.*)

The Eighteenth IACML will be held in Colombia in October 2013, and will mark the 50th anniversary of the conference. Labor ministers will adopt a Declaration at the conference, as well as endorse a new two-year Plan of Action. The Declaration from the 2011 conference in El Salvador focused on “advancing economic and social recovery with sustainable development, decent work, and social inclusion,” and established a working group chaired by Brazil on “Sustainable Development with Decent Work for a new era of Social Justice.” The United States and the Dominican Republic are co-vice-chairs of the Working Group. In 2012, the working group held seminars on globalization’s labor dimension, including topics such as job creation and the role of labor ministries, youth employment, and green jobs.

2. Bilateral Agreements and Preference Programs

a. FTAs

U.S. FTAs contain obligations concerning the consistency of each party’s labor laws with international standards (with recent FTAs obligating each party to implement in its law and practice the fundamental labor rights as stated in the 1998 ILO Declaration on Fundamental Principles and Rights at Work), not to fail to effectively enforce its labor laws, and not to waive or derogate from those laws in a manner affecting trade or investment. Additionally, the labor provisions obligate each party to designate an office within its labor ministry to serve as a contact point for purposes of the labor chapter and create labor cooperation and capacity building mechanisms through which the parties will work together to enhance opportunities to improve labor standards. The Office of Trade and Labor Affairs (OTLA) in the Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor, in consultation with USTR, serves as the contact point for purposes of administering responsibilities under the labor provisions of free trade agreements and the North American Agreement on Labor Cooperation, including the labor cooperation mechanisms. (*For additional information on OTLA, its procedures, and the process for filing a submission, visit <http://www.dol.gov/ILAB/programs/otla/index.htm> and <http://www.dol.gov/ilab/programs/otla/proceduralguidelines.htm>. The Procedural Guidelines are also available in Arabic, French, and Spanish.*)

The United States engages our FTA partners on labor issues as part of our ongoing monitoring and implementation of U.S. trade agreements. As part of engagement efforts in 2012, USTR led an interagency mission to Panama to monitor progress on its enforcement of labor laws as part of the Administration’s entry into force review of the trade agreement. The mission verified that Panama implemented improvements to its labor system beginning in 2009, including by implementing administrative decrees and ministerial resolutions to strengthen its labor laws and enforcement. (*For additional information, see Chapter III.A and visit http://www.whitehouse.gov/sites/default/files/panama_trade_agreement_labor.pdf.*) The United States also worked with trade partners to advance labor rights through technical cooperation efforts, particularly in Central America, Morocco, Peru, and Colombia in 2012. (*For additional information, see Chapter III.A.*)

In 2012 the Administration worked closely with Colombia to implement the Colombian Action Plan Related to Labor Rights, which focuses on improving protection of labor rights, preventing violence against trade unionists, and prosecuting perpetrators of such violence. Throughout the year, the Colombian government took numerous steps to meet Action Plan commitments, including hiring and training hundreds of new labor inspectors and judicial prosecutors. In addition, the newly reconstituted Colombian Ministry of Labor moved aggressively to enforce new laws that prohibit the misuse of cooperatives and other forms of subcontracting that undermine labor rights. The Labor Ministry issued ground-breaking fines against employers found violating these laws, some in excess of \$1 million. (*For additional information, see Chapter III.A and visit <http://www.ustr.gov/uscolombiatpa/labor>.*)

In 2012, in response to the Administration's request for the establishment of an arbitral panel in the case against Guatemala under Chapter 20 (Dispute Settlement) of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) for apparent violations of labor rights obligations, a three-member panel was constituted. This is the first time the United States has taken such action on a labor matter under an FTA. *(For additional information, see Chapter III.A.3 and visit <http://www.ustr.gov/trade-topics/labor/bilateral-and-regional-trade-agreements/guatemala-submission-under-cafta-dr>.)*

Also in 2012, public reports addressing labor rights in Peru and Bahrain were issued pursuant to the public submission provisions of the labor chapters of FTAs with those countries. *(For additional information, see Chapter III.A.)* Under existing trade agreements, three new submissions on labor rights were accepted for review in 2012, involving Mexico (January 2012), the Dominican Republic (February 2012), and Honduras (May 2012). Public reports on these submissions are scheduled to be issued in 2013.

b. Other Bilateral Agreements and Preference Programs

President Obama certified to the U.S. Congress in October 2009 that Haiti met the necessary requirements to continue duty-free treatment for certain Haitian-made apparel and other articles under the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II). Pursuant to the requirements of HOPE II, Haiti established an independent labor ombudsman's office and a Technical Assistance Improvement and Compliance Needs Assessment and Remediation (TAICNAR) program, which is implemented through a U.S. Department of Labor-funded ILO Better Work program. The TAICNAR program, more commonly known as Better Work Haiti, assesses factory compliance with national laws and international standards relating to core labor rights and conditions of work and ensures that producers that wish to be eligible for duty-free treatment participate in the program. Significant progress has been made in implementing the TAICNAR program, including the provision of factory assessments and remediation assistance for all companies that produce HOPE II-eligible apparel. Pursuant to HOPE II requirements to identify producers who have failed to comply with the required labor standards, the U.S. Department of Labor, in consultation with USTR, identified three such producers in December 2011 and those producers were the subject of concerted compliance and assistance efforts during 2012. Consistent with the requirements of HOPE II, the ILO issued public reports on factory compliance in April 2012 and October 2012. USTR continues to work closely with the government of Haiti, the ILO, and other U.S. Government agencies on implementation of the program to monitor factories' compliance with core labor standards. *(For additional information, view the 2012 USTR Annual Report on the Implementation of the TAICNAR program at <http://www.ustr.gov/sites/default/files/Haiti%20HOPE%20II%20report.pdf> and the ILO Biannual reports at <http://www.betterwork.org>.)*

U.S. trade preference programs, including the African Growth and Opportunity Act (AGOA), the Andean Trade Preference Act (ATPA), the Caribbean Basin Trade Preferences Act, and the Generalized System of Preferences (GSP), require the application of statutory eligibility criteria pertaining to worker rights. In 2012, the Administration accepted for review new GSP worker rights-related petitions concerning Fiji and Iraq and held a public hearing on these reviews. The Administration also closed a worker rights review of Sri Lanka after significant progress made by the government of Sri Lanka, including progress in initiating, investigating and resolving cases of unfair labor practices; establishing trade union facilitation centers in each of the three largest Economic Processing Zones; improving procedures for conducting union certifications; and enacting legislation to increase the fines for labor practices violations. The United States and Sri Lanka agreed to establish a new labor affairs committee under the TIFA to continue dialogue on labor issues. Five other previously accepted worker rights-related GSP petitions remained under review at year's end, concerning Bangladesh, Georgia, Niger, the Philippines, and Uzbekistan. In

2012, USTR and other U.S. Government officials continued to engage with these governments through U.S. embassies in those countries, their embassies in Washington, D.C., and other bilateral fora to monitor progress and press for action to address the problems cited in the petitions. An ATPA petition concerning worker rights in Ecuador was filed in 2005 and the review of practices in that country continued in 2012.

The United States and China committed to a dialogue on labor issues in 2009 during the first United States-China Strategic and Economic Dialogue (S&ED). The third meeting of the labor dialogue took place in Beijing in December 2012, at which Government representatives discussed various labor rights issues including labor law reform, labor law enforcement, industrial relations and collective bargaining, and employment training. In November 2012, the United States and China also launched a new dialogue on workplace safety and health. The United States will host the next meeting in 2013. Additionally, USTR participated in the United States-China Human Rights Dialogue led by the U.S. Department of State in July 2012, at which trade-related labor rights were discussed.

USTR also engaged with several countries on labor issues in the context of TIFA meetings and other bilateral trade mechanisms. Most notably, the United States discussed labor rights issues during TIFA meetings with Sri Lanka in March 2012 and through the first meeting of the United States-Sri Lanka TIFA labor affairs committee in June 2012, as well as with Uzbekistan during the bilateral working group of the United States-Central Asia TIFA. Additionally, the United States concluded a TIFA with the Gulf Cooperation Council in September 2012 that reflects the importance of adopting and maintaining in law and practice the ILO fundamental labor rights and ensuring the effective enforcement of labor laws. Also in 2012, the Administration released the text of a new “model” for Bilateral Investment Treaties that includes strengthened provisions on labor rights. The new provisions establish stronger labor protections in the context of promoting investment and ensuring that U.S. companies benefit from a level playing field in foreign markets.

C. Small and Medium Sized Business Initiative

In October 2009, Ambassador Ron Kirk announced a new USTR initiative aimed at increasing exports by U.S. small and medium sized enterprises (SMEs). In the past three years, USTR has expanded efforts to ensure the specific export challenges and priorities of SMEs and their workers are reflected in our trade policy and enforcement activities. During 2012, USTR engaged on an interagency basis and with trading partners to develop and implement new initiatives that support small business exports.

This agency effort also supports the goals of the Administration’s National Export Initiative (NEI) to double U.S. exports by the end of 2014 and to support millions of American jobs. The NEI highlights the importance of expanding SME exports.

U.S. small businesses are key engines for our economic growth, jobs, and innovation. SMEs that export tend to grow faster, add jobs faster, and pay higher wages than SMEs that serve only domestic markets. Direct and indirect exports by U.S. SMEs support an estimated four million jobs in the United States, while accounting for over 40 percent of the total value of U.S. exports of goods and services. There are some 28 million SMEs in the United States, but currently, only a small fraction of these companies export goods or services, and most export only one product or service to one foreign country. USTR is working to further unleash the export potential of American small businesses.

USTR is focused on making trade work to the benefit of American small businesses, helping them increase their sales to customers abroad, and thus create jobs at home. USTR does this by negotiating with foreign governments to open their markets, reducing trade barriers, and enforcing our existing trade

agreements to ensure a level playing field for American workers and businesses of all sizes. Agency-wide, USTR is working to better integrate specific SME issues and priorities into our trade policy development and implementation, increase our outreach to small businesses around the country, and expand our collaboration and coordination with our interagency colleagues.

In 2012, USTR undertook significant actions in continued support of our SME objectives.

1. USTR SME-Related Trade Policy Activities

Under the SME initiative, USTR's small business office and geographic and functional offices are developing initiatives and advancing efforts to enhance activities that could benefit SMEs. Several key aspects of USTR's trade policy agenda have particular potential to help SMEs boost exports. These include enhancing trade facilitation work, strengthening and enforcing intellectual property rights, and targeting services barriers that are especially difficult for SMEs. USTR is also exploring ways to simplify government procurement rules. Tariff barriers, burdensome customs procedures, discriminatory or arbitrary standards, and lack of transparency relating to relevant regulations in foreign markets present particular challenges for our SMEs in selling abroad.

The ability to address SME concerns through the fact finding and consultation mechanisms built into our bilateral and regional trade agreements and dialogues is an important asset for USTR. For example:

- As the United States moves forward with negotiations to expand U.S. trade in the Asia-Pacific region through the Trans-Pacific Partnership (TPP), USTR designated a point person for SME issues and is working with our TPP partners to support the growth and development of small businesses, by enhancing their ability to participate in and benefit from the export opportunities created under the Agreement. This includes commitments by all TPP Parties to develop and promote web-based information and resources about the TPP Agreement for small businesses, and coordination to ensure that small businesses are able to take advantage of the Agreement after it is implemented. SMEs will benefit from increased transparency, predictability, and ambitious and comprehensive market access in TPP partners.
- In the Asia Pacific Economic Cooperation (APEC) forum, the U.S. and counterpart APEC Ministers agreed to a comprehensive approach to improve supply chain performance in the region so that businesses can move goods faster, easier, and more cheaply. For example, APEC will look for ways to further simplify customs procedures and document requirements, which will be of assistance to small and medium-sized businesses that oftentimes lack the resources necessary to navigate overly complex requirements to deliver their goods to overseas markets in the region.
- Under the United States-Korea FTA (KORUS), the United States and Korea established an SME Working Group to develop cooperative activities to help SMEs take better advantage of KORUS trade opportunities.
- Through the Transatlantic Economic Council, two U.S.-European Union Small and Medium Enterprises Workshops were held in Rome, Italy in July 2012 and Washington, D.C. in December 2012 with the aim of exchanging best practices and facilitating increased small business participation in transatlantic trade. U.S. small businesses from around the country including the Industry Trade Advisory Committee for Small and Minority Business (ITAC 11) and members of the District Export Councils participated in the discussions with the EU. As a result of the

workshops and stakeholder input, the United States and EU concluded an MOU on SME trade promotion cooperation at the December 2012 meeting.

- Through the Administration's Middle East North Africa Trade and Investment Partnership, USTR is partnering with AID and others to support the development of the critically important SME sector in countries in transition, such as Tunisia and Egypt, through initiatives designed to enhance SME-related trade and investment and to lay the foundation for future linkages with U.S. small businesses.
- With respect to FTA partners in the Western Hemisphere, USTR is working with the U.S. Small Business Administration (SBA), the U.S. State Department and other agencies to support the Administration's Small Business Network of the Americas, announced by President Obama in Tampa, Florida prior to the Summit of the Americas in April 2012. This interagency initiative is linking U.S. Small Business Development Centers around the country with a growing network of counterpart small business centers in FTA partners including Mexico, Central America and the Dominican Republic, Panama, Colombia and others, through online trade platforms and business competitions.

2. USTR Interagency SME Activities

Under the National Export Initiative, USTR's Small Business, Market Access, and Industrial Competitiveness office participates in the Trade Promotion Coordinating Committee's (TPCC) Small Business Working Group, collaborating with agencies including the U.S. Department of Commerce, the Small Business Administration (SBA), the U.S. Export-Import Bank, the U.S. Department of Agriculture, and others across the Government to promote small business exports. The TPCC Small Business Working Group connects SMEs to trade information and resources to help them begin or expand their exports and take advantage of existing trade agreements.

In 2011, USTR's Small Business office was designated as Co-Chair of the TPCC SME Task Force on connecting SMEs to international trade opportunities. As a result of work by the Task Force, USTR, the U.S. Department of Commerce and the SBA launched the FTA Tariff Tool. This new, free, online tool (<http://export.gov/FTA/ftatarifftool/index.asp>) can help small businesses take better advantage of the reduction and elimination of tariffs under U.S. FTAs. In 2012, the FTA Tariff Tool was expanded to include tariff information on textiles and apparel products as well as rules of origin under U.S. FTAs. USTR and other agencies also created an SME Exporter's Toolkit guide to U.S. Government exporting resources which reached tens of thousands of SME exporters in the U.S. Census Bureau newsletter.

3. USTR's SME Outreach and Consultations

Throughout 2012, Ambassador Kirk and senior USTR staff actively participated in numerous events around the country to hear directly from local small businesses, workers, and other stakeholders about the trade opportunities and challenges they face. Ambassador Kirk's meetings with SME exporters and community leaders to discuss the potential to grow their exports and take advantage of market openings abroad are highlighted on USTR's website and blog. The Small Business section of USTR's website also includes helpful links, fact sheets, and resources for SMEs, including short brochures for SMEs in English and Spanish with "Frequently Asked Questions" about opportunities to export to FTA partners in the Western Hemisphere, blogs which highlight small business export success stories around the country and USTR trade policy efforts supporting small business. On an interagency basis, USTR is working with the TPCC to improve trade information relevant for SMEs and highlight interagency programs to

assist SMEs with their individual export needs on the U.S. Government's one-stop export platform (<http://www.export.gov>).

USTR staff regularly consults with the Industry Trade Advisory Committee for Small and Minority Business to seek its advice and input on U.S. trade policy negotiations and initiatives, and meet frequently with individual SMEs and associations representing SME members on specific issues.

In May 2012, Ambassador Sapiro testified before the House Committee on Small Business on efforts to expand exports by U.S. small businesses, thereby supporting greater economic growth and jobs throughout the country.

USTR's Small Business office also spoke at several SME events around the country in 2012, including at the Association of Small Business Development Centers annual conference in New Orleans, Louisiana; World Trade Week in Kansas City, Missouri; the Office of Small and Disadvantaged Business Units annual conference in Washington, D.C.; the NAFTA20 Summit Small and Medium Business Outlook in San Antonio, Texas; the U.S. Chamber and National District Export Council SME Trade Barriers Workshop in Washington, D.C., and other trade events aimed at apprising small businesses of international trade opportunities and encouraging them to begin or expand their exports.

D. Anti-Counterfeiting Trade Agreement

On October 5, 2012, Japan became the first signatory to the Anti-Counterfeiting Trade Agreement (ACTA) to deposit its instrument of acceptance. The United States is working with Japan and other negotiating parties to bring the ACTA into force.

The ACTA effort, launched in October 2007, brought together a number of countries prepared to embrace strong intellectual property rights (IPR) enforcement through a new agreement calling for cooperation, strong enforcement practices, and a strong legal framework.

ACTA signatories are Australia, Canada, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, and the United States. The European Union and EU Member States, signed the Agreement in January 2012, but it was not approved by the European Parliament. For signatories, the next step towards bringing the ACTA into force is to deposit instruments of ratification, acceptance, or approval. The ACTA will enter into force for those signatories thirty days following the deposit of the sixth such instrument.

Consistent with the Administration's emphasis on intellectual property enforcement, the ACTA intensifies efforts against the global proliferation of commercial-scale counterfeiting and piracy in the 21st century. The ACTA includes innovative provisions to deepen international cooperation and to promote strong enforcement practices, and will ultimately help sustain American jobs in innovative and creative industries.

E. Import Food Safety

On January 4, 2011, President Obama signed the Food Safety Modernization Act. This legislation includes numerous provisions to strengthen the U.S. food safety system for both domestic and imported products. Several key regulations and programs that the Act provides, and are currently under development, will improve the safety of the U.S. food supply, including food that is imported from foreign producers.

USTR has continued to address the safety of imported products through its work on sanitary and phytosanitary (SPS) chapters in U.S. FTAs. These chapters establish standing committees of the parties to the FTA to enhance cooperation and consultation on SPS matters and improve the parties' understanding of each other's SPS requirements, as well as to identify appropriate areas for capacity building and technical assistance. The ongoing TPP negotiations provide the United States with an opportunity to negotiate a 21st century trade agreement with the world's most dynamic economies to create and retain jobs in the United States. In the TPP SPS Chapter, USTR aims to strengthen commitments to apply science-based measures in a transparent manner.

The WTO SPS Committee provides an important forum for the United States to exchange information with its trading partners on countries' respective health and safety requirements, and address concerns about the implementation of those requirements. These capacity building efforts provide an opportunity for the United States to work with its trading partners to ensure that food safety requirements are based on scientific principles and sound evidence.

The U.S. Government's commitment to food safety is exemplified through its participation in the Asia-Pacific Economic Cooperation (APEC) Food Safety Cooperation Forum (FSCF) and the Partnership Training Institute Network (PTIN), which highlight the importance of investing in strengthening the food safety systems of U.S. trading partners in the Asia Pacific region. In 2012, the United States sponsored FSCF and PTIN training on export certificates and a series of focused sub-regional laboratory competency building seminars. The work on export certificates is ultimately aimed at developing APEC principles on export certification. The seminars addressed import-export trade facilitation methods, regulatory requirements, CODEX principles, and Good Laboratory Practices. The laboratory competency building program has resulted in the formation of the Scientific Technical Advisory Group (STAG), which is comprised of scientific experts who help identify areas for collaboration in strengthening the capacity of laboratories in APEC economies. The training for pesticides focused on methods of detection in fruits and vegetables for emerging APEC markets with hands-on laboratory work performed on several products.

In addition, Australia, China and the United States, with the support of other APEC economies, were awarded a three year grant from APEC to carry out competency building activities. These activities encourage countries to better align their food safety systems with the science-based international standards and best practices of the World Trade Organization (WTO) SPS Agreement. This funding represents APEC's commitment to the World Bank's Global Food Safety Partnership (GFSP) and will assist developing APEC economies in participating in the cornerstone APEC FSCF meetings in 2013 and 2015. It also will assist developing APEC economies engaged in APEC training on food incident management, risk assessment, laboratory competency building, risk-based food inspections, and pesticide maximum residue limits. APEC's collaborative model for strengthening food safety systems involving industry, academia, and governments has been so successful that it serves as a model worldwide for competency building initiatives in food safety.

The APEC FSCF and the World Bank signed a memorandum of understanding on food safety capacity building in May 2011. The World Bank announced the creation of a global partnership for food safety at the APEC Leader's meeting in November 2011, supported by a multi-donor trust fund with initial private sector and U.S. Government contributions totaling \$1 million. The fund is expected to grow to \$15 million. These efforts to deliver technical training and promote the use of best practices in food safety will increase the capacity of GFSP members to improve public health and market access through improving food safety. These activities will also further the adoption of science-based approaches that improve public health while also facilitating trade. The GFSP is based on the public-private partnership promoted by the PTIN. The GFSP is structured as a collaborative multi-stakeholder platform.

The first Global Food Safety Capacity Building Partnership Conference was held December 2012 in Paris, France. The focus of the conference was to launch formally the GFSP with the participation of senior level representatives from governments, industry, international organizations, and technical bodies. Participants discussed operational issues as well as the GFSP's five-year plan of action.

F. Organization for Economic Cooperation and Development

Thirty-four democracies in Europe, the Americas, Middle East, and the Pacific Rim comprise the Organization for Economic Cooperation and Development (OECD), established in 1961 and headquartered in Paris. The OECD is a grouping of economically significant countries and serves as a policy forum covering a broad spectrum of economic, social, environmental, and scientific areas, from macroeconomic analysis to education to biotechnology. The OECD helps countries, both OECD members and non-members, reap the benefits and confront the challenges of a global economy by promoting economic growth, free markets, and efficient use of resources. Each substantive area is covered by a committee of member government officials, supported by Secretariat staff. The emphasis is on discussion and peer review, rather than negotiation, although some OECD instruments such as the Anti-Bribery Convention are legally binding. Most OECD decisions require consensus among member governments. In the past, analysis of issues in the OECD often has been instrumental in forging a consensus among OECD countries to pursue specific negotiating goals in other international fora, such as the WTO.

The United States has a longstanding interest in trade issues studied by the OECD. The like-mindedness of the OECD's membership on the core values of democratic institutions, the rule of law, and open markets uniquely positions the OECD to serve as a valuable policy forum for addressing the opportunities and challenges of the global economy and multilateral trading system. On trade and trade policy, the OECD engages in meaningful research, provides a forum where OECD members can discuss complex and sometimes difficult issues, and communicates to the wider public the benefits that trade and open economies generate. Through its multi-disciplinary approach, the OECD offers a distinct advantage in addressing the complex economic effects of trade liberalization.

OECD efforts advance our understanding of how trade openness can bolster economies in member countries as well as in the major emerging and other non-member countries, including through economic modeling that illustrates the effects of trade liberalization on GDP, growth, and employment. In recent years, OECD research has shown that trade liberalization is an engine for job creation in all countries, especially as the world moves toward economic recovery. However, appropriate employment and social policies must accompany trade liberalization to ensure all participants reap the benefits of open markets. The Organization is also active in warning against the dangers of protectionist measures, and in describing how imports help firms to cut costs and improve efficiency. The OECD's work has advanced understanding of why imports, as well as exports, matter to the health of an economy. OECD analysis, particularly that of the Trade Committee, has helped to identify which policies, among the wide range of measures taken in response to the recent economic crisis, are most supportive of trade, growth, and employment.

1. Trade Committee Work Program

In 2012, the OECD Trade Committee, its subsidiary Working Party, and its joint working groups on the environment and agriculture, continued to address a number of issues of significance to the multilateral trading system. The Trade Committee met in May and November 2012, and its Working Party met in March, June, October, and December. Members asked the Secretariat to focus its analytical resources on work that would advocate freer trade and deepen understanding of the rationale for progressive trade

liberalization in a rules-based environment. Significant attention was paid to the areas of trade and jobs, global value chains, services trade, export restrictions, state owned enterprises, regional trade agreements, and export credits. The Trade Homepage on the OECD website (<http://www.oecd.org/trade>) contains up-to-date information on published analytical work and other trade-related activities.

Several major analytical pieces were developed or completed under the Trade Committee during 2012. These included:

- *Policy Priorities for International Trade and Jobs* (2012) Douglas Lippoldt (ed.)
- *Taking Stock of Measures Restricting the Export of Raw Materials: Analysis of OECD Inventory Data* (October 2012) Barbara Fliess and Tarja Mård
- *Global Production Networks: Labour Market Impacts and Policy Challenges* (October 2012) Susan Stone
- *Multilateralising Regionalism: Disciplines on Export Restrictions in Regional Trade Agreements* (July 2012) Jane Korinek, Jessica Bartos
- *The OECD Regulatory Reform Review of Indonesia: Market Openness* (June 2012) Molly Leshner
- *Trade, Employment and Structural Change: The Australian Experience* (March 2012) Greg Thompson, Tim Murray and Patrick Jomini (Australian Productivity Commission)
- *Trade Effects of Exchange Rates and their Volatility: Chile and New Zealand* (March 2012) Marilyne Huchet-Bourdon and Jane Korinek
- *Trade and Innovation: Synthesis Report* (January 2012) Nobuo Kiriyama

The Trade Committee continued its work developing the Services Trade Restrictiveness Index (STRI), a tool to measure the restrictiveness of barriers affecting trade in services. During 2012, the STRI Steering Group reviewed Secretariat and member country inputs for populating the STRI dataset, and services experts meetings were held to review specific sectors. The Group also held consultations with non-members as part of an active effort to include non-member data in the STRI to ensure that it is a comprehensive tool for trade policy experts.

The OECD Trade Committee also focused work on the trade effects and policy implications of state-owned enterprises (SOEs). Whereas in the past SOEs have tended to serve only their domestic markets, often shielded from competition, today SOEs and privately owned enterprises often find themselves competing with each other, both domestically (as when governments decide to expose sectors previously reserved for SOE monopolies to private competition) and internationally (as SOEs increasingly expand across borders). Systematic information on the extent and nature of competition between SOEs and privately owned enterprises in international markets remains scarce, and the OECD Trade Committee has started to fill this gap. The Trade Committee held a workshop on “Competition between State-owned and Privately-owned Enterprises in International Markets” in October 2012.

The OECD Ministerial Council Meeting took place in May 2012 in Paris. U.S. Trade Representative Ambassador Ron Kirk participated in the Trade Session which focused on trade and jobs, fighting protectionism, the services trade, and measuring trade in value-added terms. OECD members, Enhanced Engagement Partners, accession candidate Russia, and Trade Committee observers Argentina and Hong Kong participated in the session. Participants underscored the importance of trade for job creation and focused on areas where progress could be made on trade liberalization and fighting protectionism. Members expressed support for the completion of the OECD International Collaborative Initiative on Trade and Employment (ICITE), which culminated in the book *Policy Priorities for International Trade and Jobs* (OECD, 2012) that was delivered for the Ministerial. Members also encouraged ongoing work concerning the STRI and measuring trade in value-added terms.

2. Trade Committee Dialogue with Non-OECD Members

The OECD conducts wide-ranging activities to reach out to non-member countries, business, and civil society, in particular through its series of workshops and “Global Forum” events held around the world each year. Non-members may participate as observers of committees when members believe that participation will be mutually beneficial. Brazil, China, India, Indonesia, and South Africa participate to varying degrees in OECD activities through the Enhanced Engagement program, which seeks to establish a more structured and coherent partnership, based on mutual interest, between these five major economies and OECD members. Argentina, Brazil, and Hong Kong (China) are regular observers to the Trade Committee and its Working Party. The OECD also carries out a number of regional and bilateral cooperation programs with non-members.

The OECD Trade Committee continued its contacts with non-member countries in line with its 2010 Global Relations Strategy. Enhanced Engagement and G-20 countries were invited to participate in special sessions of the May and November 2012 Trade Committee discussions related to fighting protectionism, creating and preserving jobs through goods and services trade, and measuring trade in value-added terms. This engagement facilitated discussions promoting the functioning and deepening of the multilateral trading system and increasing transparency of trade policies. Russia, the only current accession candidate to the OECD, also continued trade-related work on its OECD accession process throughout 2012.

The OECD Global Forum on Trade took place in November 2012 in Paris and focused on “trade and trade policy in services.” The discussion centered on the trade policy implications of the changing market conditions facing service providers, with the objective of promoting more open services markets.

In addition, the Trade Committee continued its dialogue with civil society, discussing aspects of its work and issues of concern with representatives of civil society, including members of the OECD’s Business and Industry Advisory Council (BIAC) and Trade Union Advisory Council (TUAC).

3. Other OECD Work Related to Trade

Representatives of the OECD member countries meet in specialized committees to advance ideas and review progress in specific policy areas, such as economics, trade, science, employment, education, and financial markets. There are about 200 committees, working groups, and expert groups. Additional information on OECD activities and publications related to trade can be found on the following OECD websites:

- Trade: www.oecd.org/trade
- Trade and development: www.oecd.org/trade/dev
- Trade and environment: www.oecd.org/trade/env
- Trade facilitation: www.oecd.org/trade/facilitation
- Agricultural trade: www.oecd.org/agriculture/trade
- Services trade: www.oecd.org/trade/services
- Anti-Bribery Convention: www.oecd.org/corruption
- Export credits: www.oecd.org/trade/xcred
- Employment: Labor and Social Affairs: www.oecd.org/els
- Fisheries: www.oecd.org/fisheries
- Regulatory Reform: www.oecd.org/regreform
- Steel: www.oecd.org/sti/steel

G. Localization Barriers to Trade

In the last few years, a growing number of America's trading partners have imposed what are called "localization barriers to trade" - measures designed to protect, favor, or stimulate domestic industries, service providers, and/or intellectual property (IP) at the expense of goods, services, or IP from other countries. Localization barriers are measures that can serve as disguised trade barriers when they unreasonably differentiate between domestic and foreign products, services, IP, or suppliers, and may or may not be consistent with WTO rules. Examples of localization barriers include:

- Local content requirements, i.e., requirements to purchase domestically-manufactured goods or domestically-supplied services;
- Subsidies or other preferences that are only received if producers use local goods, locally-owned service providers, or domestically-owned or developed IP, or IP that is first registered in that country;
- Requirements to provide services using local facilities or infrastructure;
- Measures to force the transfer of technology or IP;
- Requirements to comply with country- or region-specific or design-based standards that create unnecessary obstacles to trade; and
- Unjustified requirements to conduct or carry out duplicative conformity assessment procedures in-country.

Disadvantaging or excluding foreign goods, services, or IP in a market compared to domestic goods, services, or IP can distort trade, discourage foreign direct investment, and push other trading partners to impose similarly detrimental measures. Consequently, often over the long term, these measures can actually stand in the way of the economic growth and competitiveness objectives that they were intended to achieve.

For these reasons, it has been longstanding U.S. trade policy to advocate strongly against localization barriers and instead encourage trading partners to pursue policy approaches that help their economic growth and competitiveness without discriminating against imported goods or services.

In 2012, USTR established the Trade Policy Staff Committee Task Force on Localization Barriers to Trade to develop and execute a more strategic and coordinated approach to address localization barriers. In 2013, this work will build upon USTR initiatives already underway, including those that are seeking to address localization barriers through binding trade agreements, enforcement, and advocacy. The Task Force will work to promote global-level policy approaches that offer better ways to stimulate job creation and economic growth. The Task Force will pursue this mission through a variety of bilateral, regional, and multilateral forums, including the WTO, APEC, OECD, and the Trade and Investment Framework Agreement dialogues with other countries. It will also work closely with U.S. industry and other stakeholders, as well as with trading partners around the world, to carry out its mission and reduce market access challenges posed to U.S. goods, services, and IP by localization barriers.