

SUBSIDIES ENFORCEMENT ANNUAL REPORT TO THE CONGRESS



**JOINT REPORT OF
THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
AND THE UNITED STATES DEPARTMENT OF COMMERCE**



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EXECUTIVE SUMMARY

Section 281(f)(4) of the Uruguay Round Agreements Act directs the Office of the United States Trade Representative (USTR) and the U.S. Department of Commerce (Commerce) to submit an annual report to Congress describing the U.S. subsidies enforcement program. This is the twenty first such annual report to Congress and describes the U.S. government's key activities and actions taken during 2015 to identify, monitor, and address trade-distorting foreign government subsidies.

Strong enforcement of international trade rules is vital to providing U.S. manufacturers, workers and exporters the opportunity to compete on a level playing field at home and abroad. In 2015, USTR and Commerce continued their efforts to rigorously monitor and evaluate foreign government subsidies, intensively engaged with trading partners on subsidies issues, advocated for stronger subsidy disciplines, and took concrete action against foreign government practices that appear to be inconsistent with international subsidy rules. Through these actions, USTR and Commerce ensured that the U.S. Government's subsidies enforcement program identified, deterred, and confronted foreign government subsidization that harms U.S. manufacturing and agricultural interests.

In February 2012, the President signed an Executive Order launching the Interagency Trade Enforcement Center (ITEC) as a means to enhance further the U.S. government's ability to address key trade enforcement issues. Since then, ITEC

has played an important role in vigorously pursuing U.S. rights under international subsidy rules, as evidenced by ITEC's role in supporting several World Trade Organization (WTO) dispute settlement challenges that involved subsidies disciplines, including prohibited export subsidies and local content subsidies, as well as several transparency related actions. ITEC's work enhances and supplements the ongoing monitoring and enforcement efforts of the U.S. government.

The principal tools available to the U.S. government to address harmful subsidy practices are the WTO Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) and U.S. domestic countervailing duty (CVD) law. The Subsidies Agreement obligates all WTO Members to ensure that their government support programs are consistent with certain rules. The United States relies on the disciplines and tools provided under the Subsidies Agreement, as well as the U.S. CVD law, to remedy harm caused to U.S. industries, workers and exporters by trade-distorting foreign government subsidies. Where appropriate, USTR and Commerce work to resolve issues of concern through bilateral and multilateral engagement, advocacy, and negotiation. In those instances where our rights and interests cannot be readily and effectively defended through these means, USTR will initiate and pursue WTO dispute settlement proceedings, as appropriate.

The U.S. Government's subsidies enforcement program is an integral part of meeting the challenge of ensuring that American companies and workers benefit from an open and competitive trading environment that is unencumbered by

commercially harmful, trade-distorting foreign government subsidies. The Administration remains committed to utilizing this important program to help expand U.S. exports and support U.S. jobs based on export growth through robust monitoring and enforcement of domestic trade remedy laws and U.S. rights under international trade agreements.

Subsidies Enforcement Highlights

Ensuring China Does Not Provide Prohibited Subsidies: In 2015, the United States began dispute settlement proceedings involving China's Demonstration Base program, which appears to provide millions of dollars in prohibited export subsidies to multiple sectors and hundreds of companies in China.

Holding China Accountable for its Subsidies Notification Obligations: In 2015, the United States enhanced its efforts to hold China accountable for its transparency obligations under the WTO Subsidies Agreement and China's Protocol of Accession to the WTO and accompanying report of the Working Party. This included the submission of a third "counter notification" of Chinese subsidies targeted at so-called Strategic and Emerging Industries, continued pressure to notify the hundreds of unreported subsidies in earlier U.S. "counter notifications" of Chinese subsidies, and a formal request to China to disclose fully all support measures provided to its fisheries sector.

Advancing Subsidies Enforcement through ITEC: In 2015, ITEC made important contributions to the counter notification of Chinese subsidies, identified numerous Russian government subsidies, helped ensure that Vietnam lived up to its WTO accession commitments, detailed the apparent subsidy programs of several Southeast Asian countries, and supported the development of several WTO disputes and potential WTO disputes that involved subsidies disciplines, including prohibited export subsidies and local content subsidies.

Countering Unfair Subsidies in Non-Market Economies, such as China and Vietnam, using the U.S. CVD Law: In 2012, Congress reaffirmed Commerce's ability to impose countervailing duties on unfairly subsidized products from countries designated as non-market economy countries. As of the end of 2015, Commerce has in place 33 CVD orders on products imported from China and 3 orders on products imported from Vietnam.

Promoting Improved Transparency of Subsidies in the WTO Subsidies Committee: In 2015, the United States continued to play a leading role in the WTO Subsidies Committee, advocating to improve the timeliness and completeness of WTO Members' subsidy notifications and to enhance transparency across a range of reporting obligations under the Subsidies Agreement. These efforts prompted a number of WTO Members to take steps to improve the transparency of their subsidy regimes.

Maintaining the Strength of the Prohibited Export Subsidy Rules: 2015 marks the end of a long transition period that WTO Members granted a group of mostly small, developing countries for coming into compliance with the Subsidies Agreement's prohibition on export subsidies. Despite efforts by some WTO Members to extend the already generous transition period, the United States and a handful of others stood firm in insisting that all Members come into compliance, especially given the importance of maintaining the strong disciplines on such trade-distortive subsidies.

INTRODUCTION

The World Trade Organization's (WTO) Agreement on Subsidies and Countervailing Measures (Subsidies Agreement or SCM Agreement) establishes multilateral disciplines on the use of subsidies and provides mechanisms for challenging government measures that contravene these disciplines.¹ The disciplines established by the Subsidies Agreement are subject to dispute settlement procedures, which specify time lines for bringing a subsidy practice into conformity with the relevant obligation. The remedies in such circumstances can include the withdrawal or modification of a subsidy, or the elimination of a subsidy's adverse effects. In addition, the Subsidies Agreement sets forth rules and procedures to govern the application of countervailing duty (CVD) measures by WTO Members with respect to subsidized imports.

The Subsidies Agreement nominally divides subsidy practices into three classes: prohibited (red light) subsidies; permitted yet actionable (yellow light) subsidies; and permitted non-actionable (green light) subsidies.² Subsidies contingent upon export performance (export subsidies) and subsidies contingent upon the use of domestic over imported goods (import-substitution subsidies or local content

subsidies) are prohibited. All other subsidies are permitted, but are nevertheless actionable through CVD or dispute settlement action if they are (i) "specific", *e.g.*, limited to a firm, industry or group and (ii) found to cause adverse trade effects, such as material injury to a domestic industry or serious prejudice to the trade interests of another WTO Member.

The Office of the U.S. Trade Representative (USTR) and the U.S. Department of Commerce (Commerce) have unique and complementary roles with respect to their responses to U.S. trade policy problems associated with foreign subsidized competition. In general, USTR has primary responsibility for developing and coordinating the implementation of U.S. international trade policy, including with respect to subsidy matters; represents the United States in the WTO, including its Committee on Subsidies and Countervailing Measures (Subsidies Committee); and chairs the interagency process on matters of subsidy trade policy. The creation of ITEC also provides the U.S. government an increased research and monitoring ability.

The role of Commerce, through the International Trade Administration's (ITA's) Enforcement and Compliance (E&C) unit³ is to administer and enforce the CVD law, identify and monitor the subsidy practices of other countries, provide the technical expertise needed to analyze and understand the impact of foreign subsidies on U.S. commerce and provide assistance to interested U.S. parties concerning remedies available to them. E&C also identifies

¹ This report focuses on measures that would fall under the purview of the Subsidies Agreement and does not comprehensively address activities that would be addressed under other WTO agreements, such as the Agreement on Agriculture.

² With the expiration in 2000 of certain provisions of the Subsidies Agreement regarding green light subsidies, the only non-actionable subsidies at present are those that are not specific, as discussed below.

³ Formerly known as Import Administration.

appropriate and effective strategies and opportunities to address problematic foreign subsidies and works with USTR to engage foreign governments on subsidies issues. Moreover, E&C works closely with USTR in responding to foreign government requests for information, and defending the interests of U.S. exporters, in foreign CVD cases involving imports from the United States. Within E&C, subsidy monitoring and enforcement activities are carried out by the Subsidies Enforcement Office (SEO). See Attachment 1.

MULTILATERAL INITIATIVES

WTO NEGOTIATIONS

At the Doha Ministerial Conference in 2001 – which launched the Doha Development Agenda (DDA) – Ministers agreed to negotiations aimed at clarifying and improving disciplines under the Subsidies Agreement and the WTO Agreement on Implementation of Article VI of the GATT 1994 (the Antidumping Agreement, or AD Agreement), and to address trade-distorting practices that often give rise to CVD and antidumping duty (AD) proceedings. In the negotiations under this agreement of the Ministers – hereafter referred to as the Rules mandate – the United States pursued an aggressive, affirmative agenda, aimed at strengthening the rules and addressing the underlying causes of unfair trade practices.

As noted above, the existing WTO disciplines on subsidies prohibit only two types of subsidies: export subsidies and import-substitution subsidies. However, other types of permitted subsidies can significantly distort trade. The specific language of the Rules mandate is important

in this regard because it has provided an avenue to address these other practices and to inform the discussion of trade remedies in a constructive manner. Moreover, it provided a basis to take up the negotiating objectives that Congress had laid out in the Trade Act of 2002, as well as other subsidy concerns that affect key sectors of the U.S. economy.

The Rules mandate also calls for clarified and improved WTO disciplines on fisheries subsidies. The depleted state of the world's fisheries continues to be a major economic and environmental concern, and the United States has long believed that subsidies that contribute to overcapacity and overfishing, or that have other trade-distorting effects, are a significant part of the problem. The United States has viewed the negotiations on fisheries subsidies as a groundbreaking opportunity for the WTO to show that the further development of international trade rules can benefit the environment and contribute to sustainable development, as well as to address traditional trade concerns.

During 2015, the Rules Group met informally in February, April, May, June, July, October, November, and December. During the February – June meetings, Members were provided with opportunities to discuss how Rules Group issues would be involved in the Post-Bali Work Program (PBWP) due in July. In these meetings, there were also several transparency reports on the consultations conducted by the Chair with individual delegations. The Chair reported that while delegations expressed diverging views on whether and to what extent the various Rules Group issues should be included in the PBWP, the

prevailing view was that a serious discussion on the role of the Rules Group would not be possible until the general approach and level of ambition on the core Doha Round issues (*i.e.*, agriculture, NAMA, and services) were defined. In the end, Members could not reach consensus by the July deadline for the PBWP.

During the July - December meetings, the Chair called Members together for their views on several papers submitted by the Friends of Anti-Dumping Negotiations (FANs); Australia; the African, Caribbean, and Pacific Countries (ACP); the European Union; the Russian Federation; Japan; New Zealand (with co-sponsors); and Peru. All of these papers discussed possible areas of negotiation in the Rules Group and/or possible deliverables for the WTO Ministerial Conference in Nairobi in December 2015 (MC-10). While numerous Members expressed their opinions on the proposals put forth, and on other possible options, no agreement was reached on a Rules Group outcome for MC-10. Working with other like-minded Members, the United States joined in a Ministerial Statement on Fisheries Subsidies that expressed support for reinvigorating work in the WTO to strengthen disciplines on fisheries subsidies and enhance their transparency.

In 2016, the United States will continue to focus on, *inter alia*, preserving the effectiveness of trade remedy rules, improving transparency and due process in trade remedy proceedings, and strengthening existing subsidies rules. Concerning fisheries subsidies, the United States will continue to seek stronger disciplines and greater transparency in the WTO, building on successful Trans-Pacific

Partnership negotiations. The United States will continue to pursue disciplines on fisheries subsidies in other negotiations and fora, including the Transatlantic Trade and Investment Partnership negotiations, which will assist our efforts to reach eventual agreement on fisheries subsidies in the WTO.

Trans-Pacific Partnership Agreement

In November 2009, President Obama announced the United States' intention to participate in the Trans-Pacific Partnership (TPP) negotiations to conclude an ambitious, next-generation, Asia-Pacific trade agreement. Through these negotiations, the United States, along with Australia, Brunei Darussalam, Chile, Malaysia, New Zealand, Peru, Singapore, and Vietnam began to craft a high-standard agreement that addresses new and emerging trade issues and challenges. After nine rounds of negotiations, on November 12, 2011, the Leaders of the nine TPP countries announced agreement on the broad outlines of an ambitious, 21st-century agreement that will enhance trade and investment among the TPP partner countries, promote innovation, economic growth and development, and support the creation and retention of jobs. In 2012, Canada and Mexico joined the TPP negotiations and in 2013, Japan became the newest TPP partner country. On October 4, 2015, Ministers of the 12 TPP countries announced the successful conclusion of their negotiations.⁴

The Administration identified the negotiation of new disciplines on state-

⁴ The TPP text is available at: <https://ustr.gov/tpp>.

owned enterprises (SOEs) as a priority for the TPP. The TPP SOE chapter covers large SOEs that are principally engaged in commercial activities. The parties agreed to ensure that their SOEs make commercial purchases and sales on the basis of commercial considerations, except when doing so would be inconsistent with any mandate under which the SOE is operating that would require it to provide public services. They also agreed to ensure that their SOEs or designated monopolies do not discriminate against the enterprises, goods, and services of other Parties. Parties agreed to provide their courts with jurisdiction over commercial activities of foreign SOEs in their territory, and to ensure that administrative bodies regulating both SOEs and private companies do so in an impartial manner. Importantly, in the subsidy discipline context, TPP Parties agreed to not cause adverse effects to the interest of other TPP Parties in providing non-commercial assistance to SOEs, or injury to another Party's domestic industry by providing non-commercial assistance to an SOE that produces and sells goods in that other Party's territory.

Regarding trade remedies, TPP negotiations proceeded consistently with the negotiating objectives that Congress laid out in the Trade Act of 2002, and reinforced in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (2015 TPA), with the goal of preserving the effectiveness of trade remedy rules and improving transparency and due process in trade remedy proceedings. To that end, the Trade Remedies chapter ensures that U.S. producers and workers remain fully able to use our trade remedy laws, including antidumping and countervailing duties. The

Trade Remedies chapter also promotes transparency and due process in trade remedy proceedings through recognition of best practices, but does not affect the TPP Parties' rights and obligations under the WTO. However, no Party will have recourse to TPP dispute settlement for any matters related to AD or CVD proceedings.

With respect to marine fisheries, the Agreement represents the culmination of decades of work by the United States and certain TPP partners to reform fisheries subsidies practices that distort free market forces and have resulted in a global fishing fleet that is up to 250% larger than required to fish at sustainable levels. TPP partners account for over one-quarter of seafood trade and are among the top global fishing nations. Therefore, the TPP prohibitions on certain fisheries subsidies, including subsidies for harmful fishing of overfished stocks and those that support illegal, unreported, and unregulated (IUU) fishing, will benefit the long-term health of the ocean's environment and fish stocks that are essential to both the business livelihood of those who depend on fishing and consumers. The TPP Environment Chapter is the first FTA environment chapter to contain such substantive, enforceable provisions. Addressing these subsidies will have positive impacts on trade, development and the environment.

TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP

Following a detailed exploratory process that took place throughout 2012, the United States and the European Union (EU) issued the Final Report of the High Level Working Group on Jobs and Growth in February 2013 (Report). The Report

concluded that a comprehensive trade agreement that addresses a broad range of bilateral trade and investment issues, and contributes to the development of global rules, would provide significant mutual benefit. The Report highlighted globally relevant challenges and opportunities, including those related to subsidies and other privileges granted to SOEs, “localization” requirements (e.g., requirements to use domestically sourced inputs, labor, technology or capital), export restrictions on raw materials, and other areas of mutual concern.

USTR subsequently notified Congress of the Administration’s intent to enter into negotiations, and the Transatlantic Trade and Investment Partnership (T-TIP) negotiations were launched in June 2013. During 2015, negotiating rounds took place in February, April, July, and October.

Among the U.S. T-TIP objectives are developing disciplines addressing SOEs and discriminatory localization barriers to trade. Discussions continue on whether and what types of subsidies and trade remedies-related provisions could also be included in the agreement.

ADDRESSING MARKET-DISTORTING TRADE PRACTICES IN THE STEEL INDUSTRY

Throughout 2015, the United States continued to address concerns related to the global steel sector, working closely with trading partners. In particular, the United States was active in various bilateral, regional and multilateral fora such as the Organization for Economic Cooperation and Development (OECD); the North American Steel Trade Committee (NASTC); and the

U.S.-China Joint Commission on Commerce and Trade (JCCT).

The global excess steelmaking capacity situation continued to worsen in 2015. Government policies in many steel-producing economies drove the continued global expansion and retention of inefficient excess steelmaking capacity in many economies. Excess steelmaking capacity is now estimated to approach unsustainable levels of up to 600 million metric tons, according to OECD estimates. The excess steelmaking capacity situation in China is particularly acute, with Chinese excess capacity alone estimated to be between 200 and 300 million metric tons, which is equivalent to approximately 13-20 percent of global demand (in 2014). With slowing global demand for steel, particularly in China, the sustained high levels of steelmaking capacity and steel production that are out of line with market realities are causing shifts in trade patterns and disruptions on global markets.

It is against this backdrop that the United States continued its close work with the governments of other steel-producing economies in the OECD Steel Committee to take up policy issues affecting the global steel industry. The global steelmaking excess capacity – and the role of subsidies in creating and artificially maintaining capacity – were at the forefront of these issues. At the November 30 – December 1 2015 meeting of the Steel Committee, given a strong desire to immediately address the excess capacity challenge in the global steel industry, participants gave their overwhelming support for enhanced focus on and potential policy options to address the excess capacity situation in 2016, starting with an OECD High-Level

Symposium on Excess Capacity and Structural Adjustment to be hosted by Belgium in Brussels on April 18 – 19, 2016. This high level meeting will focus on policy actions to facilitate the reduction of inefficient steelmaking capacity worldwide, as well as on the need to refrain from government measures that distort markets and contribute to excess capacity.

The NASTC continued to be a valuable forum for the governments and steel industries of North America to examine and pursue common policy approaches to promote the competitiveness of North American steel producers and cooperation on issues such as the excess capacity situation. The NASTC developed a North American Steel Strategy in 2006 that includes cooperation on issues of importance to steel in multilateral fora (e.g., the OECD Steel Committee and the WTO Rules Group). In 2015, the United States, Canada and Mexico collaborated in the NASTC on efforts in the OECD Steel Committee, highlighting concerns regarding policies that contribute to global excess capacity, including government subsidies.

Government-funded expansion of steelmaking capacity in China continues to be a particularly serious concern. While China has closed some inefficient steel facilities, steel capacity as a whole in China continued to grow in 2015 as newer, more efficient capacity has come on line. Steel production decreased in 2015 (two percent over 2014) in China for the first time in decades. However, the fact that Chinese steelmaking capacity is estimated to grow another 0.8% by 2017, despite decreasing steel demand in China, combined with the fact that exports from China reached a record level of 100 million metric tons in

2015 through November - 22 percent higher than in 2014 - raises concerns that China's growing excess capacity is increasingly being shifted to global markets.

The United States raised this issue with the government of China during the run-up to the July 2014 U.S.-China Strategic and Economic Dialogue. As a result of these discussions, China agreed to "establish mechanisms that strictly prevent the expansion of crude steelmaking capacity and that are designed to achieve, over the next five years, major progress in addressing excess production capacity in the steel sector" in the context of its "efforts to rein in excess production capacity in key manufacturing sectors and to foster a business environment in which the market can play a decisive role in allocating resources." To follow up, at the November 2015 JCCT meeting, China and the United States agreed to hold discussions in 2016 regarding capacity, production and trade in the steel sector, including updates on progress made with regard to China's July 2014 S&ED commitments. The two sides also agreed to exchange information on steel capacity developments in each economy.

The United States continues to work with like-minded trading partners to monitor subsidies and developments in China's steel sector and support concrete steps by China to rein in its steelmaking capacity. We will also continue to engage China on these matters in bilateral and multilateral fora.

MONITORING AND ENFORCEMENT

Interagency Trade Enforcement Center

On February 28, 2012, the President signed an Executive Order establishing the Interagency Trade Enforcement Center (ITEC) within USTR to strengthen the United States' capability to monitor foreign trade practices and enforce U.S. trade rights.⁵

ITEC mobilizes and coordinates resources and expertise across the federal government to develop and support the pursuit of trade enforcement actions that will address unfair foreign trade practices and barriers that could otherwise negatively affect the United States' export growth and job recovery efforts. ITEC employs a dedicated, "whole-of-government" approach to trade enforcement to strengthen efforts to level the playing field for American workers and businesses.

Since its inception, ITEC has leveraged interagency resources to provide research and in-depth analysis of enforcement-related issues in relation to foreign trade practices that harm U.S. workers and exporters. ITEC staff members come from a variety of agencies including the Departments of Commerce, Agriculture, State, Justice, and Treasury, as well as from the U.S. International Trade Commission and the Office of the Director of National Intelligence.

ITEC has provided substantive support as part of USTR's efforts in a variety of ongoing WTO disputes, including monitoring and post-dispute compliance, as

well as developing issues for possible future dispute settlement action and enforcement-related negotiations. In 2015, ITEC was critical to the "counter notification" of Chinese subsidies for Strategic and Emerging Industries (SEIs) to the WTO (discussed further below), helped ensure that Vietnam lived up to its WTO accession commitments, detailed the apparent subsidy programs of several Southeast Asian countries and made important contributions to several WTO disputes that involved subsidies disciplines, including prohibited export subsidies and local content subsidies.

ITEC's Mandarin-speaking staff members have identified and systematically catalogued numerous potentially prohibited and other subsidies maintained by the Chinese government. ITEC support was also particularly helpful in conducting Russian-language research and assisting in the drafting of U.S. questions regarding Russia's first subsidies notification to the WTO. In summary, ITEC supports ongoing litigation, enforcement-related negotiations, compliance matters, and WTO Committee work. ITEC and ITA exchange information such as news reports, measures, translations, and analyses regarding foreign programs that appear to provide subsidies.

U.S. Government subject matter experts from Commerce and a variety of agencies have made important contributions to the efforts already undertaken by ITEC, and continue to collaborate closely with ITEC staff to provide assistance as USTR works to ensure that our trading partners abide by their obligations under the WTO and other U.S. trade agreements.

⁵ Executive Order 13601.

Advocacy Efforts and Monitoring Subsidy Practices Worldwide

The United States is strongly committed to pursuing its rights under the Subsidies Agreement. This commitment to enforcement is a critical component of the President's National Export Initiative (NEI), launched in January 2010 with a subsequent phase (NEI/NEXT) launched in 2014. The Export Promotion Cabinet, whose members include Secretary of Commerce Penny Pritzker and USTR Ambassador Michael Froman, is responsible for pursuing the commitment under the NEI/NEXT to use all the tools at the U.S. Government's disposal to help American exporters grow their markets abroad. A key component of achieving that goal is a focus on trade compliance and enforcement of existing trade agreements, such as the Subsidies Agreement.⁶

Under the NEI/NEXT, the U.S. Government is focusing its monitoring and enforcement activities in key overseas markets by actively working to address harmful foreign government subsidies and ensuring foreign government compliance with existing trade agreements. By proactively working to address a wide range of subsidy practices, the U.S. Government's subsidies enforcement program is helping to meet the important goal of expanding U.S. exports and preserving and supporting U.S. jobs. Further, the U.S. Government is devoting increased resources to the defense of U.S. commercial interests affected by foreign trade remedy actions, particularly CVD investigations of U.S.

⁶ See <http://trade.gov/nei/> and <http://www.ustr.gov/nei>.

federal and state government support programs. U.S. Government participation in these cases is critical for U.S. exporters to maintain their access to key markets.

Monitoring Efforts

Identifying, researching and evaluating potential foreign government subsidy practices is a core function of the subsidies enforcement program. Expert subsidy analysts in E&C and USTR (including within ITEC) with various foreign language skills primarily conduct this work. This includes performing research and in-depth analysis of potential subsidies identified in various online resources, including foreign government web sites, worldwide business journals and periodicals; utilizing numerous legal databases; and cultivating relationships with U.S. industry contacts. USTR and E&C officers stationed overseas (for example, in China) enhance these efforts by helping to gather, clarify, and confirm the accuracy of information concerning foreign subsidy practices.

Counseling U.S. Industry

USTR and E&C regularly engage with U.S. industries confronted by unfairly subsidized foreign competitors with the goal of identifying and implementing effective and timely solutions. While solutions can often be pursued through informal and formal contacts with the relevant foreign government, USTR and E&C also confer with U.S. companies and workers regarding other options that may be available, such as trade remedy investigations or WTO dispute settlement.

During this process, USTR and E&C work closely with affected companies and

workers to collect information concerning potential subsidies and to determine how U.S. commercial interests are harmed by these measures. While U.S. companies facing subsidized foreign competition can be expected to have useful information as to the financial health of their industry, they usually require significant technical assistance in identifying and fully understanding the nature and scope of the foreign subsidies practices they confront. In these instances, USTR and E&C conduct additional research to determine the legal framework under which a foreign government may be offering potential subsidies.

Working with an interagency team, USTR and E&C fully analyze the information collected to determine the best way to proceed. Often, the most timely and effective approach to resolving these problems is by pursuing the matter with foreign government authorities through informal contacts, formal bilateral meetings or discussions in the WTO Subsidies Committee. This process may produce more expeditious and practical solutions to the problem than would immediate recourse to formal WTO dispute settlement or the filing of a CVD petition. If these informal efforts fail to adequately resolve the issue, the U.S. Government may consider WTO dispute settlement proceedings or may advise an affected firm about procedures for filing a CVD petition.

During 2015, USTR and Commerce worked with a variety of U.S. companies, industries and workers that had significant concerns about unfair foreign government support practices in a wide range of countries. These activities included new and ongoing work on behalf of a wide range

of U.S. industries, including many sectors that significantly contribute to U.S. exports.

OUTREACH EFFORTS

USTR and E&C coordinate with other U.S. Government personnel who have direct contact with the U.S. exporting community, both in the United States and abroad, to make them aware of the resources and services available regarding subsidy enforcement efforts. This collaboration among U.S. Government agencies, each with its own on-the-ground knowledge and expertise, is important to help effectively exercise U.S. rights under the Subsidies Agreement. Also, working closely with their colleagues in U.S. embassies, USTR and E&C officers stationed in Beijing undertake primary-source research of potential unfair trade practices in China and in other countries in the region. Their efforts in this area are critical to monitoring China's subsidy practices and enforcing the unfair trade rules. Furthermore, both USTR and E&C have staff stationed in Geneva, Switzerland, to participate in the ongoing WTO Rules negotiations, the work of the WTO Subsidies Committee and WTO dispute settlement activities relevant to subsidies enforcement and trade remedies.

CHINESE GOVERNMENT SUBSIDY PRACTICES

Overview

While China's leaders have signaled a re-focusing on economic reform, the Chinese government has continued to emphasize the state's role in China's economy. This diverges from the path of economic reform that drove China's accession to the WTO. With the state

leading China's economic development, the Chinese government has pursued new and more expansive industrial policies, often designed to limit market access for imported goods, foreign manufacturers and foreign service-suppliers, while offering substantial government guidance, regulatory support and resources, including subsidies, to Chinese industries, particularly industries dominated by SOEs.

Against this backdrop, there are serious concerns that China has a poor record of compliance with the WTO transparency obligations that it assumed regarding its industrial subsidy regime. China maintains a largely opaque industrial support system and appears to have employed numerous subsidies – some of which may be prohibited – as an integral part of industrial policies designed to promote or protect its SOEs and favored domestic industries. The heavy state role in the economy has generated trade frictions with China's many trade partners, including the United States. In response, the United States and other WTO Members have pursued several successful dispute settlement proceedings against China with respect to its subsidies practices.

Transparency is a core principle of the WTO agreements, and it is firmly enshrined as a key obligation under the Subsidies Agreement, as well as China's Protocol of Accession to the WTO and accompanying report of the Working Party. Article 25 of the Subsidies Agreement obligates every Member to file regular notifications of all specific subsidies that it maintains. This information is required, among other reasons, so that it is possible to assess the nature and extent of a

Member's subsidy programs and their likely impact on trade.

Despite the obligation to submit regular subsidy notifications, and despite being the largest trader among WTO Members, China did not file its first subsidy notification until 2006, five years after joining the WTO. That notification only covered the time period from 2001 to 2004. China submitted a second notification five years later, in 2011, covering the period 2005 to 2008. Most recently, in October of 2015, China submitted its third notification, covering the periods 2009 to 2014. However, all three of these notifications were significantly incomplete. In particular, all three notifications exclude numerous central government subsidies for certain sectors (*e.g.*, steel, wild capture fisheries, aluminum), and none of the three included a single subsidy administered by provincial or local government authorities, even though the United States has successfully challenged scores of provincial and local government subsidy measures as prohibited subsidies in WTO dispute settlement proceedings.

Pursuant to its WTO accession commitments, China is also obligated to make available translations of its trade-related measures – including subsidy measures – in one or more WTO languages and publish all trade-related measures in a single official journal. However, to date, it appears that China has not translated or published in its official journal most of the legal measures that establish and fund China's subsidy programs.

The United States has devoted significant time and resources to researching, identifying, monitoring and

analyzing China's subsidy practices. These efforts have confirmed substantial and serious omissions in China's subsidies notifications. It is clear, for example, that provincial and local governments play a key role in implementing many of China's industrial policies, including subsidies policies. The magnitude of governmental support in pursuit of industrial policies at all levels of government can be seen in the funds allocated for implementation of China's Twelfth Five-Year Plan, a blueprint for China's industrial development which, by some accounts, amounts to over RMB 1.2 trillion (roughly \$200 billion at the current exchange rate).

China's large and growing role in world production and trade necessitates that its trading partners understand the extent and nature of China's subsidy regime at both the central and sub-central government levels. The United States and several other Members have expressed serious concerns about the incompleteness of China's notifications and have repeatedly requested that China submit complete and timely notifications that include subsidies provided by provincial and local government authorities. Moreover, as the United States noted at both WTO Subsidies Committee meetings in 2015, China has yet to notify any subsidies provided to the steel and aluminum industries or wild capture fisheries, or provided pursuant to the stimulus measures China implemented after the 2008 global financial crisis.

U.S. Actions in the WTO Subsidies Committee – Article 25.8 Questions and Article 25.10 “Counter Notifications” of Chinese Subsidy Programs

Over the past several years the United States has taken aggressive steps in

the WTO Subsidies Committee to address China's failure to provide timely and complete subsidy notifications. Specifically and as detailed below, the United States has made formal requests for information from China regarding its subsidy regime and has now counter-notified over 350 unreported Chinese subsidy measures to the WTO Subsidies Committee. These actions are specifically provided for under the Subsidies Agreement so that WTO Members can address the failure of other Members to comply with their transparency obligations. The United States took these actions only after repeatedly expressing its concerns at the regular meetings of the WTO Subsidies Committee and numerous attempts to engage China through dialogue and bilateral consultations. Unfortunately, China's notification record remains significantly incomplete.

Article 25.8 Information Requests: The United States submitted written requests for information to China under Article 25.8 of the Subsidies Agreement in October 2012, April 2014 and April 2015. In the 2012 Article 25.8 request, the United States provided more evidence of central government and sub-central government subsidy measures that provide assistance to a wide range of industrial sectors in China, including semiconductors, aerospace, steel, fish and textiles. Under Article 25.9 of the Subsidies Agreement, China was obligated to respond “as quickly as possible and in a comprehensive manner”. In light of China's failure to respond to this request, the United States submitted a counter notification under Article 25.10 of the Subsidies Agreement in October 2014 (see below) covering most of the subsidy programs raised in the 2012 Article 25.8 request, and revised the 2012 request for

the remaining programs not included in the counter notification.

The United States also submitted an Article 25.8 request in 2014. This request pertains to China's policies, programs and implementing measures in support of its "strategic emerging industries" (SEI). A key objective of this plan is to promote key SEI sectors, which include: (1) new energy vehicles, (2) new materials (a category that includes textile products) (3) biotechnology, (4) high-end equipment manufacturing, (5) new energy, (6) next generation information technology, and (7) energy conservation and environmental protection. As with other industrial planning measures in China, sub-central governments appear to play an important role in implementing China's Twelfth Five-Year Plan for its SEI. Furthermore, the information available to the United States confirms the important role of industrial policies in China which, in the case of the SEI initiative, include policies, programs and implementing measures that may be considered to be subsidies. In light of China's failure to respond to this Article 25.8 request, the United States submitted a counter notification under Article 25.10 of the Subsidies Agreement in October 2015 (see below) covering the subsidy measures raised in the 2014 Article 25.8 request.

In the spring of 2015, the United States employed the Article 25.8 mechanism yet again to submit questions to China on various measures that appear to be fishery subsidies. Many of the measures were first listed in WTO's Trade Policy Report for China, drafted by the WTO Secretariat as part of its review of China's trade policies under the Trade Policy Review Mechanism. To date, China has not

provided specific written responses to the 2015 Article 25.8 questions of the United States.

Article 25.10 Counter Notifications: As noted above, the United States has utilized the Article 25.10 counter notification mechanism of the Subsidies Agreement with respect to Chinese subsidy measures three times: in October 2011, October 2014 and October 2015. As also noted, over 350 subsidy measures have been counter notified to date. In the 2011 Article 25.10 submission, the United States identified 200 unreported subsidy measures that China has maintained since 2004, including many provided by provincial and local government authorities. Although not obligated to do so, in its submission, the United States included complete translated copies of each legal measure. These measures were identified in the course of various CVD investigations conducted by Commerce, an examination of a Section 301 petition filed by the United Steelworkers Union regarding China's green energy support programs, and extensive research conducted by USTR and Commerce, including some research that eventually led to WTO dispute settlement proceedings. The various measures included in the counter notification were voluminous, numbering over several hundred pages.

In October 2014, the United States submitted a second Article 25.10 counter notification of over 100 subsidy measures that were the subject of the U.S. 2012 Article 25.8 request described above. As part of this Article 25.10 counter notification, although not required under the Subsidies Agreement, the United States made available electronically complete translations of each of the subsidy

measures at issue for the benefit of other WTO Members and the general public. The counter notification includes subsidies measures covering the steel, fish and semiconductor sectors. The counter notification also includes twenty-six measures under which government assistance is being provided through stimulus plans. These measures cover important industries such as textiles, non-ferrous metals (including aluminum) and light industry.

In October of 2015, the United States submitted its third counter notification of subsidy measures in China. All of the measures in this counter notification pertain to China's policy of promoting its "strategic, emerging industries" or SEIs. This counter notification was based on the Article 25.8 questions submitted to China in the spring of 2014. Once again, because China did not respond to these questions, the United States was compelled to counter notify the measures at issue. Over 60 subsidy measures were included in the counter notification. As with other industrial planning measures in China, sub-central governments appear to play an important role in implementing China's SEI policy.

To date, China has not provided a complete, substantive response to these counter notifications. Instead, China claims that the United States has "misunderstood" China's subsidy programs and the relationship between the programs notified by China and those contained in the U.S. counter notifications. However, China has also refused to engage with the United States in any bilateral discussions on this matter, despite numerous requests to do so. While China has now submitted its third

subsidies notification, which technically brings it up to date with its Subsidies Agreement obligations, a review of this third notification indicates that it over-reports programs that appear not to be subject to the notification requirement and grossly under-reports the active subsidy programs in China.

In 2016, the United States will continue to analyze China's third notification, particularly with respect to China's fishery sector, and will focus on other possible subsidy programs in China that were not notified, particularly those that may be prohibited under the Subsidies Agreement, those administered at the provincial and local levels, and those provided to sectors for which China has yet to notify any, or has only notified a few, subsidies (*e.g.*, steel, aluminum).

As part of this effort, the United States will actively consider what additional Article 25.8 questions and 25.10 counter notifications regarding China's support programs may be necessary. The United States will also continue to seek to raise its concerns with China's subsidies practices in bilateral meetings with China.

Application of U.S. Countervailing Duty Law to China

In 2006, based on a CVD petition filed by the U.S. coated free sheet paper industry, Commerce began to apply U.S. CVD law to China. The application of the CVD law to China was premised upon Commerce's finding that reforms in China's economy in recent years had removed the obstacles to applying the CVD law that were present in the Soviet-era economies at issue when Commerce first declined to apply the CVD law to nonmarket economies (NMEs)

in the 1980s. On March 13, 2012, President Obama signed into law Public Law 112-99, reaffirming Commerce's ability to impose countervailing duties on merchandise from countries that Commerce has designated as NMEs that benefit from countervailable subsidies that materially injure a U.S. industry. As explained in further detail below, efforts by China to challenge Commerce's ability to countervail Chinese subsidies under Public Law 112-99 through WTO dispute settlement were unsuccessful.

Since 2006, several U.S. industries concerned about subsidized imports from China have filed CVD petitions. As of the end of 2015, Commerce has in place 33 CVD final orders on products imported from China, involving such products as steel, aluminum, textiles, paper, various chemicals, wood, non-ferrous metals, plywood, flooring, tires, and products of new energy technology industries, among others. There is a broad array of alleged subsidies that Commerce has investigated or is investigating in these cases, including preferential government policy loans; income tax and VAT exemptions and reductions; the provision by government of goods and services such as land, electricity and steel on non-commercial terms; and a variety of provincial and local government subsidies.

Several of the programs Commerce has investigated appear to be prohibited under the Subsidies Agreement, including a myriad of export-contingent grants and tax incentives. Details on all of Commerce's CVD proceedings, and the programs investigated in each proceeding, can be found in the SEO's Electronic Subsidies Enforcement Library website at http://esel.trade.gov:443/esel/groups/public/documents/web_resources/esel_home.html.

[c/documents/web_resources/esel_home.html](http://esel.trade.gov:443/esel/groups/public/documents/web_resources/esel_home.html). Details on the U.S. WTO disputes challenging China's maintenance of subsidy programs that appear to be prohibited are discussed below in the WTO Dispute Settlement section.

JCCT - Structural Issues Working Group and Trade Remedies Working Group

Established in 1983, the U.S.-China Joint Commission on Commerce and Trade, or JCCT is a government-to-government consultative mechanism that provides a forum to resolve trade concerns and promote bilateral commercial opportunities. The JCCT is co-chaired for the United States by the Secretary of Commerce and the U.S. Trade Representative, and for China by a Vice Premier.

From a U.S. trade policy standpoint, it has been important to engage China on existing structural and operational issues regarding China's economy, particularly those that distort trade and give rise to trade frictions, and to encourage China to pursue the economic reforms that drove its accession to the WTO. At the same time, China's status as an NME country under the U.S. AD law is of substantial concern and importance to the Chinese government. To better understand China's reform objectives and the results of reforms to date, as well as to discuss issues that relate to China's desire for market economy status under the U.S. AD law, China and the United States agreed during the April 2004 JCCT meeting to establish the Structural Issues Working Group (SIWG). Commerce's Assistant Secretary for Enforcement and Compliance and the Assistant U.S. Trade Representative for China Affairs have co-chaired the SIWG

for the U.S. side, and the Director General of the Trade Remedy Investigation Bureau of the Ministry of Commerce (MOFCOM) has served as China's chair.⁷

The SIWG held its most recent meetings in Washington, DC in October 2015. China's delegation included several Chinese experts who provided an overview of China's recent economic reform plans as well as an update on China's efforts to transition to a more market-oriented system.

The United States and China also established in 2004 a second JCCT working group, the Trade Remedies Working Group (TRWG), in conjunction with the SIWG, to serve as a forum for both sides to raise issues of concern with regard to the other's trade remedy practices and proceedings, *i.e.*, with respect to the application of AD, CVD, and safeguards measures. Importantly, discussions in the TRWG supplement, but do not replace, engagement on these matters in other fora, such as at the WTO.

In October 2015, concurrent with the SIWG meetings, the United States and China held TRWG meetings in Washington, D.C. The United States requested information with regard to a number of

⁷ While the SIWG did not serve as a forum for resolving or deciding the issue of market economy country status, it provided a constructive setting for the mutual exchange of views and relevant information. Under U.S. AD law, any review of China's status as an NME country must take place in a formal, on-the-record proceeding before Commerce, open to all interested parties.

aspects of MOFCOM's AD and CVD decisions, including the procedures and methodologies used in MOFCOM's investigations and MOFCOM's efforts to ensure transparency in its investigations. These U.S. requests for information were prompted by concerns regarding insufficient disclosure and transparency that often characterize MOFCOM's administrative system.

Over the years, discussions in the SIWG have increasingly overlapped with discussions in the TRWG. Both sides agreed at the end of 2015 that, going forward, SIWG- and TRWG-related issues would be consolidated and addressed in a new, re-configured TRWG, without prejudice to any former SIWG-related issues that either side might want to raise. The United States will continue to seek ways to improve the bilateral dialogue in the enhanced TRWG, and, where possible, utilize this group as a practical means to address areas of concern, including subsidies-related issues.

WTO Subsidies Committee

The WTO Subsidies Committee held its two formal semi-annual meetings in April and October of 2015. The Subsidies Committee continued its regular work of reviewing WTO Members' periodic notifications of their subsidy programs and the consistency of Members' domestic laws, regulations, and actions with the requirements of the Subsidies Agreement. Among other items addressed in the course of the year (and as discussed in part elsewhere in this report) were the following: the U.S. 2011 counter notifications of unreported subsidy programs in China and India; the 2014 and 2015 U.S. counter notification of additional

Chinese subsidies; U.S. questions to China under Article 25.8 of the Subsidies Agreement; examination of ways to improve the timeliness and completeness of subsidy notifications; the U.S. proposal regarding procedures for responding to questions submitted under Article 25.8 of the Subsidies Agreement; the “export competitiveness” of India’s textile and apparel sector; review of the export subsidy program extension mechanism for certain small-economy developing-country Members; filling an opening on the five-member Permanent Group of Experts; and updating the eligibility threshold for developing countries to provide export subsidies under Annex VII(b) of the Subsidies Agreement. Further information on these various activities is provided below.

In addition to these specific items included on the Subsidies Committee agenda in 2015, consistent with its own obligations under the Subsidies Agreement, the United States submitted its new and full subsidies notification to the Subsidies Committee, covering fiscal years 2013 and 2014. This notification includes detailed information on dozens of federal level programs as well as hundreds of programs provided at the state level.⁸

⁸See New And Full Notification Pursuant To Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures--United States ((G/SCM/N/284/USA), 18 November 2015, which is available on the WTO’s public document download site at: https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S005.aspx.

Subsidy Notifications by Other WTO Members

Subsidy notification and surveillance is one means by which the Subsidies Committee and its Members seek to ensure adherence to the disciplines of the Subsidies Agreement. In keeping with the objectives and directives expressed in the Uruguay Round Agreements Act, WTO subsidy notifications also play an important role in U.S. subsidies monitoring and enforcement activities.

Under Article 25.2 of the Subsidies Agreement, Members are required to report certain information on all measures that, as set forth in Articles 1 and 2 of the Agreement, meet the definition of a subsidy and are specific. In 2015, the Subsidies Committee reviewed ninety-two subsidies notifications.⁹ Numerous Members have never made a subsidy notification to the WTO, although many are lesser developed countries.¹⁰

⁹ During the 2015 spring and fall meetings, the Subsidies Committee reviewed the 2015 new and full subsidy notifications of Albania, Armenia, Canada, Costa Rica, Dominica, Ecuador, El Salvador, the European Union, Bulgaria, Croatia, Czech Republic, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Spain, Sweden, Hong Kong China, Japan, Jordan, Korea, Liechtenstein, Macao China, Mexico, Montenegro, New Zealand, Norway, Peru, Qatar, Saint Vincent and the Grenadines, Singapore, Switzerland, Chinese Taipei, Turkey, Ukraine;; the 2013 new and full notifications of Albania, the European Union, India, Israel, Malaysia, Oman, Turkey, and the United States; the 2011 new and full subsidy notification of India.

¹⁰ For further information, see the Report (2015) of the WTO Committee on Subsidies and Countervailing Measures (G/L/1133), October 29, 2015.

Review of CVD Legislation, Regulations and Measures

Throughout 2015, many WTO Members submitted notifications of new or amended CVD legislation and regulations, as well as CVD investigations initiated and decisions taken. These notifications were reviewed and discussed by the Subsidies Committee at its regular spring and fall meetings in 2015. In reviewing notified CVD legislation and regulations, the Subsidies Committee procedures provide for the exchange in advance of written questions and answers in order to clarify the operation of the notified laws and regulations and their relationship to the obligations of the Subsidies Agreement. The United States continued to play an important role in the Subsidies Committee's examination of the operation of other Members' CVD laws and their consistency with the obligations of the Subsidies Agreement.

To date, 106 WTO Members¹¹ have notified that they have CVD legislation in place or stated they do not have such legislation. In 2015, the Subsidies Committee reviewed notifications of new or amended CVD laws and regulations from Armenia, Australia, Bahrain, Brazil, Cameroon, Qatar, Saudi Arabia and the United States.¹²

¹¹ The European Union is counted as one Member. These notifications do not include those submitted by Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, the Slovak Republic and Slovenia before these Members acceded to the European Union.

¹² In keeping with WTO practice, the review of legislative provisions which pertain or apply to

As for CVD measures, 12 WTO Members notified CVD actions taken during the latter half of 2014, and 12 Members notified actions taken in the first half of 2015.¹³ In 2015, the Subsidies Committee reviewed actions taken by Australia, Brazil, Canada, the EU, Peru, Russia, Ukraine and the United States.

U.S. Counter Notifications

Under Article 25.1 of the Subsidies Agreement, Members are obligated to regularly provide a subsidy notification to the Subsidies Committee. As described above, prior to October 2011, China had only submitted a single subsidy notification in 2006 (covering the years 2001 – 2004). India submitted a subsidies notification in 2010 – that only included three programs – after not providing any notification for 10 years. The United States and other Members have repeatedly expressed deep concern about the notification record of China and India (among others).

Pursuant to Article 25.10, the United States filed counter notifications in October 2011 with respect to over 200 unreported subsidy measures in China and 50 unreported subsidy programs in India – the first counter notifications ever filed by the United States. While China submitted its second subsidy notification (covering 2005 – 2008) shortly after the U.S. counter notification, it covered very few of the subsidy programs referenced in the U.S.

both AD and CVD actions by a Member generally has taken place in the Antidumping Committee.

counter notification. Subsequently, India submitted a supplemental subsidy notification covering certain fishery programs, including programs at the sub-central level. However, none of the programs in the supplemental notification were those referenced in the U.S. counter notification. At both meetings of the Subsidies Committee in 2015, the United States continued to press China and India to notify the outstanding measures identified in the U.S. 2011 counter notifications. See the above section, "China Subsidy Practices" for further details.

Notification Improvements

In March 2009, the Chairman of the WTO's Trade Policy Review Body, acting through the Chairman of the General Council, requested that all committees discuss "ways to improve the timeliness and completeness of notifications and other information flows on trade measures." The United States has fully supported this initiative since 2009 and has developed proposals that would encourage Members to be more transparent in their industrial subsidy policies.

In 2015, the United States continued its engagement on this issue by highlighting the failure by several important WTO Members (*e.g.*, China and India) to submit timely and complete subsidy notifications. This failure by some of the WTO's largest exporters to notify their subsidy programs under the Subsidies Agreement undermines the transparency objectives of the Agreement.

The United States devotes significant time and resources to researching, monitoring, and analyzing the

subsidy practices of Members that have not submitted complete and timely subsidy notifications. This has helped to identify the very significant omissions in the subsidy notifications submitted to date, particularly in the case of China and India, and has laid the groundwork for the further pursuit of these issues in the context of the Subsidies Committee's work. In 2015, the United States also employed the language abilities of ITEC to specifically focus on the subsidy reporting (or lack thereof) of Russia, Vietnam, Malaysia, Indonesia, Philippines and Mexico.

Another issue the United States has been concerned with is the lack of subsidy notifications by Members with respect to sub-central government programs. While China, which has not yet notified any sub-central measures, continues to be the primary focus of this concern, other countries such as India, Canada, Mexico and Brazil also seem to have difficulty in notifying sub-central government programs. Especially in light of the efforts the United States makes to notify its state programs, the United States focused its efforts in identifying such gaps in other countries' subsidy notifications and pressed these Members to notify their sub-central government programs.

In 2015, under the transparency agenda item of the Subsidies Committee, the United States continued to advocate for a specific proposal that it originally submitted in 2011 to strengthen and improve the procedures of the Subsidies Committee under Article 25.8 of the Subsidies Agreement. Under Article 25.8, any Member may make a written request for information on the nature and extent of a subsidy granted by another Member, or

for an explanation of why a specific measure is not considered subject to the notification requirement. This mechanism allows Members to draw attention to and request information about particular subsidy measures that are of concern. Further, under Article 25.9, Members that receive such a request must answer “as quickly as possible and in a comprehensive manner.”

Despite these provisions, many questions submitted to Members under Article 25.8 remain unanswered or are answered only many years after the questions are first submitted. In order to clarify Members’ obligations in this area, in 2011, the United States proposed that the Subsidies Committee develop guidelines for answering Article 25.8 questions, including deadlines for submitting written answers under Article 25.9 within a specific timeframe.¹⁴ In 2012, the United States submitted a detailed textual proposal that would require (1) a written process; (2) time limits for submitting replies to questions received under Article 25.8; (3) time limits for submitting written replies to follow up questions; and (4) that all pending questions under Article 25.8 remain on the Subsidies Committee’s agenda until a reply has been provided.

In 2014, the United States provided additional, detailed explanations regarding its 2011 proposal, emphasizing the importance of implementing a formal schedule for Members to respond to Article 25.8 questions and suggesting a deadline of 60 days for such responses. Prior to the October 2014 meeting of the Subsidies Committee, the United States submitted a

revision of its 2011 proposal.¹⁵ With this submission, the United States seeks formal adoption by WTO Members of its proposal that written answers be provided within 60 days to written questions submitted under Article 25.8, and that written replies to follow-up questions be provided within 30 days. Moreover, under the U.S. proposal, written questions under Article 25.8 should be included on the Subsidies Committee’s agenda until written answers are submitted and an opportunity is provided for further discussion and follow-up questions at a Committee meeting.

In 2015, the United States acknowledged the concerns raised by some countries that the U.S. proposal might impede, rather than improve, the information flow by imposing strict deadlines on Members with capacity constraints and recognized the potential burden this proposal might present, in particular for lesser developed countries with significant capacity constraints. Toward that end, the United States stated it would be willing to work with Members to find a pragmatic solution to their concerns, but emphasized that the underlying rationale of the U.S. proposal – to enhance information flows among Members – is fundamentally sound. The United States thus asked those Members that raised the issue of capacity constraints to provide constructive ideas on how our proposal can be improved to address these concerns.

As in prior meetings where the U.S. proposal was discussed, a number of WTO Members, including Australia, Canada, the EU, Japan, New Zealand and Norway supported the U.S. proposal while other

¹⁴ G/SCM/W/555 (October 21, 2011).

¹⁵ G/SCM/W/557/Rev. 1 (September 22, 2014).

Members, such as China, India, Brazil and Russia expressed continued concerns that it would impose additional burdens on Members that go beyond the technical requirements of the text of Articles 25.8 and 25.9. Some of those Members, however, also expressed a willingness to be flexible and explore ways to improve the U.S. proposal so that their concerns are addressed.

The United States will work on finding a pragmatic solution that satisfies the underlying objective of enhancing the information exchange, and to continue to promote its revised proposal and other means to improve compliance with the subsidy notification obligations of the Subsidies Agreement.

Article 27.4 Update

Under the Subsidies Agreement, most developing country Members were obligated to eliminate their export subsidies by December 31, 2002. Article 27.4 of the Subsidies Agreement authorizes the Subsidies Committee to extend this deadline for particular Members, where requested and justified. If the Subsidies Committee does not affirmatively determine that an extension is justified, that Member's export subsidies must be phased out within two years.

To address the concerns of certain small, developing country Members, a special procedure within the context of Article 27.4 of the Subsidies Agreement was adopted at the Fourth WTO Ministerial Conference in 2001. Under this procedure, developing country Members who met all of the agreed-upon qualifications became eligible for annual extensions upon request

for a five-year period through 2007, in addition to the two years referred to under Article 27.4. Antigua and Barbuda, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic, El Salvador, Fiji, Grenada, Guatemala, Jamaica, Jordan, Mauritius, Panama, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Uruguay have made yearly requests for extensions under this special procedure.

Following a request for a further extension after the agreed upon five-year period, in 2007, the Subsidies Committee decided to recommend to the General Council a further extension of the transition period until 2013 under similar special procedures as those that had previously been in place. This recommendation included a final two-year phase-out period, starting in 2014, as provided for in Article 27.4 of the Subsidies Agreement. An important outcome of these negotiations, insisted upon by the United States and other developed and developing countries, was that the beneficiaries have no further recourse to extensions beyond 2015. The General Council adopted the recommendation of the Subsidies Committee in July 2007.¹⁶ (Attachment 3 contains a chart of all of the programs for which extensions were previously granted).

Despite the understanding that no further extensions would be provided with respect to these particular export programs, in late 2015, Jordan submitted a waiver request to the Council for Trade in Goods which effectively would have allowed a further extension of its export subsidies. In

¹⁶ WT/L/691.

a November meeting of the Council, a consensus could not be reached to grant Jordan's request. The United States has been, and continues to be, actively advising Jordan as to how it can come into compliance.

Permanent Group of Experts

Article 24.3 of the Subsidies Agreement directs the Subsidies Committee to establish a Permanent Group of Experts (PGE) "composed of five independent persons, highly qualified in the fields of subsidies and trade relations." The Subsidies Agreement articulates three roles for the PGE: (1) to provide, at the request of a dispute settlement panel, a binding ruling on whether a particular practice brought before that panel constitutes a prohibited subsidy within the meaning of Article 3 of the Subsidies Agreement; (2) to provide, at the request of the Subsidies Committee, an advisory opinion on the existence and nature of any subsidy; and (3) to provide, at the request of a Member, a "confidential" advisory opinion on the nature of any subsidy proposed to be introduced or currently maintained by that Member. To date, the PGE has not been called upon to fulfill any of these functions.

Article 24 further provides for the Subsidies Committee to elect experts to the PGE, with one of the five experts being replaced every year. The election to replace an expert whose term has expired is normally taken by the Subsidies Committee during its regular spring meeting in the year following the expiration. At the beginning of 2015, the members of the Permanent Group of Experts were: Mr. Akio Shimizu (Japan); Mr. Zhang Yuqing (China); Mr. Welber Barral (Brazil), Mr. Chris Parlin

(United States), and Mr. Subash Pillai (Malaysia). Mr. Ichiro Araki (Japan) was elected at the regular fall meeting to replace the outgoing Mr. Shimizu. Therefore, at the end of 2015, the five members of the PGE were: Mr. Zhang Yuqing (until 2016), Mr. Welber Barral (until 2017), Mr. Chris Parlin (until 2018), Mr. Subash Pillai (until 2019), and Mr. Ichiro Araki (until 2020).

The Methodology for Annex VII (b) of the Subsidies Agreement

Annex VII of the Subsidies Agreement identifies certain lesser developed country Members that are eligible for particular types of special and differential treatment. Specifically, any export subsidies provided by these Members are not prohibited. The Members identified in Annex VII include those WTO Members designated by the United Nations as "least developed countries" (Annex VII(a)) as well as countries that, at the time of the negotiation of the Subsidies Agreement, had a per capita GNP under \$1,000 per annum and that are specifically listed in Annex VII(b).¹⁷ A country automatically "graduates" from Annex VII(b) status when its per capita GNP rises above the \$1,000 threshold. At the WTO's Fourth Ministerial Conference, Ministers made a decision that the calculation of the \$1,000 threshold would be based on constant 1990 dollars. The WTO Secretariat

¹⁷ Members identified in Annex VII(b) are: Bolivia, Cameroon, Congo, Cote d'Ivoire, Ghana, Guyana, India, Indonesia, Kenya, Nicaragua, Nigeria, Pakistan, Senegal, Sri Lanka, and Zimbabwe. In recognition of a technical error made in the final compilation of this list and pursuant to a General Council decision, Honduras was formally added to Annex VII(b) on January 20, 2001.

regularly updates these calculations and, to date, the following countries have graduated from Annex VII(b) status: the Dominican Republic, Egypt, Guatemala, Morocco, the Philippines and Sri Lanka.¹⁸

India's Export Competitiveness

As a developing country Member listed in Annex VII of the Subsidies Agreement, India is not currently subject to the Subsidies Agreement's general prohibition of export subsidies. However, Article 27.5 of the Subsidies Agreement stipulates that Annex VII Members that have reached export competitiveness in one or more products must gradually phase-out over a period of eight years any export subsidies on such products. Article 27.6 of the Subsidies Agreement further stipulates that export competitiveness exists when a developing country Member's exports of a product reach 3.25 percent of world trade for two consecutive calendar years.

On February 26, 2010, the United States submitted a request, in accordance with Article 27.6 of the Subsidies Agreement, that the WTO Secretariat undertake a computation of the export competitiveness of textile and apparel exports from India.¹⁹ The Secretariat released its computation on March 23, 2010,²⁰ which confirmed that India's exports of textile and apparel products exceed the export competitiveness threshold stipulated in the Subsidies Agreement.

The eight-year period during which India was required to phase out all export subsidies to its textiles industry ended in 2014. Despite that requirement, based on India's Foreign Trade Policy 2015-2020 and other public information, it appears that India continues to maintain existing export subsidies—and in some cases has instituted new export subsidies—to its textiles industry as of the end of 2015. The United States has held a number of bilateral discussions with India to review, among other things, the implications of India's textile and apparel industries reaching export competitiveness, including the requirement under Article 27.5 of the Subsidies Agreement that India phase out export subsidies benefitting its textiles and apparel industries. As it has done at prior meetings of the Subsidies Committee, in 2015, the United States, along with other Members, urged India to commit to a schedule to end its export subsidies for products for which it had achieved export competitiveness and to refrain from implementing new programs. Despite these efforts, the United States remains concerned that India continues to implement new export subsidy programs for which India's textile and apparel industries are eligible.

As of the start of 2015, the period in which India was required to phase out its export subsidies to textiles and apparel products has ended. While India has recognized its obligation to end its export subsidies to its textile and apparel industry, it has not yet developed a public timetable to do so. Accordingly, the United States will continue bilateral engagement on this matter.

¹⁸ G/SCM/110/Add.10.

¹⁹ G/SCM/132.

²⁰ G/SCM/132/Add.1; G/SCM/132/Add.1/Rev.1.

Committee Prospects for 2016

In 2016, the United States will continue to analyze the latest subsidy notification submitted by China in the fall of 2015, particularly with respect to China's fishery sector, and will focus on other possible subsidy programs in China not notified, particularly those that may be prohibited under the Subsidies Agreement, those administered at the provincial and local levels, and those provided to sectors for which China has yet to notify any subsidies (e.g., steel). The United States will continue to seek to engage India bilaterally to commit to a phase out of its export subsidy programs to the extent that they benefit the textile and apparel sector. More generally, the Subsidies Committee will continue to work in 2016 to improve the timeliness and completeness of Members' subsidy notifications and, in particular, will continue to discuss the proposal made by the United States to improve and strengthen the Subsidies Committee's procedures under Article 25.8 of the Subsidies Agreement. Finally, the subsidy notification of the United States, covering fiscal years 2013 and 2014, will likely be reviewed by the Subsidies Committee in the spring of 2016.

WTO DISPUTE SETTLEMENT

European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft – DS316

On October 6, 2004, the United States requested consultations with the EU, as well as with Germany, France, the United Kingdom, and Spain, with respect to subsidies provided to Airbus, a

manufacturer of large civil aircraft. The United States alleged that such subsidies violated various provisions of the Subsidies Agreement, as well as Article XVI:1 of the GATT 1994. Despite an attempt to resolve this dispute through the negotiation of a new agreement to end subsidies for large civil aircraft, the parties were unable to come to a resolution. As a result, the United States filed a panel request on May 31, 2005. The U.S. request challenged several types of EU subsidies that appeared to be prohibited, actionable, or both. A panel was established on July 20, 2005.

The panel issued its report on June 30, 2010. It agreed with the United States that the disputed measures of the EU, France, Germany, Spain, and the United Kingdom were inconsistent with the Subsidies Agreement, as detailed below:

- Every instance of "launch aid" provided to Airbus was found to be an actionable subsidy because, in each case, the terms charged for this unique low-interest, success-dependent financing were more favorable than would have been available in the market.
- Some of the launch aid provided for the A380, Airbus's newest and largest aircraft, was found to be contingent on exports and, therefore, a prohibited subsidy.
- Several instances in which the German and French governments developed infrastructure for Airbus were found to be actionable subsidies because the infrastructure was not generally available and was provided for less than adequate remuneration by the government.

- Several government equity infusions into the Airbus companies were found to be subsidies because they were provided on more favorable terms than available in the market.
- Several EU and Member State research programs to develop new aircraft technologies were found to provide actionable grants to Airbus.
- The subsidies found were determined to cause adverse effects to the interests of the United States in the form of lost sales, displacement of U.S. imports into the EU market, and displacement of U.S. exports into the markets of Australia, Brazil, China, Chinese Taipei, Korea, Mexico, and Singapore.

The EU appealed the ruling to the WTO Appellate Body. The Appellate Body issued its findings on May 18, 2011. The Appellate Body modified the panel's findings that certain launch aid was a prohibited export subsidy, but left intact most of the panel's findings, including the recommendation that the EU take appropriate steps to remove the adverse effects or withdraw the subsidies. The Appellate Body report and the panel report, as modified by the Appellate Body report, were adopted by the Dispute Settlement Body (DSB) on June 1, 2011. The EU had until December 1, 2011 to bring itself into compliance with the adopted reports.

On December 1, 2011, the EU sent the United States a "Compliance Report" asserting that it had taken steps to address the subsidies, and had thereby come into compliance with its WTO obligations. However, the United States believes the EU notification shows that the EU has not

withdrawn the subsidies in question and has, in fact, granted new subsidies to Airbus' development and production of large civil aircraft. On December 9, 2011, the United States requested consultations with the EU regarding the December 1, 2011, notification. The United States also requested authorization from the WTO DSB to impose countermeasures annually in response to the EU's claim that it fully complied with the ruling in this case. The amount of the countermeasures would vary annually, but in a recent period are estimated as having been in the range of \$7-10 billion.

In early 2012, the United States and the EU agreed to a sequencing agreement under which the determination of the amount and imposition of any countermeasures would not occur until after WTO proceedings determining whether the EU has complied with its WTO obligations. On March 30, 2012, the United States requested that a dispute settlement panel be formed to determine that the EU had failed to comply fully with its WTO obligations. The panel is expected to issue its report on the U.S. claims in 2016.

United States – Measures Affecting Trade in Large Civil Aircraft – DS353

On October 6, 2004, the EU requested consultations with respect to "prohibited and actionable subsidies provided to U.S. producers of large civil aircraft." The EU alleged that such subsidies violated several provisions of the Subsidies Agreement, as well as Article III:4 of the GATT 1994. Consultations were held on November 5, 2004. On May 31, 2005, the EU requested the establishment of a panel to consider its claims, and on June 27,

2005, filed a second request for consultations regarding large civil aircraft subsidies. This request addressed many of the measures covered in the initial consultations, as well as several additional measures that were not covered. The EU requested establishment of a panel with regard to its second panel request on January 20, 2006.

The panel issued its report on March 31, 2011. It agreed with the United States that many of the EU's claims were without merit. Particularly, the panel found that many of the U.S. practices challenged by the EU were not subsidies or did not cause adverse effects to the interests of the EU. However, the panel did find certain U.S. practices to be inconsistent with its WTO obligations. Specifically, certain NASA and Department of Defense research and development programs as well as certain state tax and investment incentives were found to be subsidies that caused adverse effects. As well, the U.S. foreign sales corporation and extraterritorial income (FSC/ETI) tax exemptions were found to be prohibited export subsidies pursuant to previous WTO rulings. However, because those previous rulings already addressed the FSC/ETI exemptions, the panel refrained from making a recommendation in this case.

The EU filed a notice of appeal on April 1, 2011. The United States cross-appealed on April 28, 2011. The Appellate Body held two hearings on the issues raised in the appeal: the first on August 16-19, 2011, addressing issues related to whether certain U.S. practices were subsidies, and the second on October 11-14, 2011, focusing on the panel's findings that the U.S. practices caused serious prejudice to EU interests. The Appellate Body issued its

ruling in March 2012. The Appellate Body's decision upheld or modified the panel's findings regarding the federal research and development programs and state tax and investment incentives, but curtailed some of the panel's findings as to the adverse effects caused by those subsidies.

On September 23, 2012, the United States notified the EU and the WTO that it had modified the terms of research and development programs and otherwise operated its programs in a manner to comply with the WTO rulings. However, the EU did not agree with this assessment. Immediately thereafter, on September 25, 2012, the EU requested consultations with the United States over its compliance. Consultations were held on October 10, 2012. The very next day, October 11, the EU requested the formation of a dispute settlement panel by the WTO Dispute Settlement Body to determine whether the United States has complied with the rulings. The DSB formed a panel to hear the EU's claim on October 23, 2012. The EU has also requested authorization to impose countermeasures in the estimated amount of USD\$12 billion annually. Pursuant to a sequencing agreement between the parties, the determination and imposition of any amount of countermeasures will not occur until after the issue of compliance is determined. The panel is expected to issue its report on the U.S. claims not earlier than mid-2016.

United States – Conditional Tax Incentives for Large Civil Aircraft – DS487

On December 19, 2014, the EU requested consultations with respect to “conditional tax incentives established by the State of Washington in relation to the

development, manufacture, and sale of large civil aircraft.” The EU alleges that such tax incentives are prohibited subsidies that are inconsistent with Articles 3.1(b) and 3.2 of the Subsidies Agreement. Consultations were held on February 2, 2015, and a panel was established on February 23, 2015. The panel was composed by the Director General on April 22, 2015, as follows: Mr. Daniel Moulis, Chair; Mr. Terry Collins-Williams and Mr. Wilhelm Meier, Members. The panel is expected to issue its report in 2016.

U.S. Application of Countervailing Duties to Chinese Imports – DS437

On May 25, 2012, China requested WTO consultations with respect to 22 U.S. CVD investigations of Chinese imports conducted since 2008. Consultations were held on June 25 and July 18, 2012, which failed to resolve the dispute. On August 20, 2012, China requested the establishment of a WTO panel, and the Dispute Settlement Body established a panel at its September 28, 2012, meeting. In this dispute, China included claims related to the “public bodies” issue that were similar to those raised in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (DS379), and also included claims related to export restraints, initiation standards, benchmarks, specificity, and the application of adverse facts available. After multiple submissions and two in-person meetings with the panel, on July 14, 2014, the panel found that with respect to the majority of issues, the challenged investigations were consistent with the United States’ WTO obligations. The panel did find, however, that Commerce’s public body determinations were inconsistent with the standards set

forth by the Appellate Body in *United States – Definitive Anti-Dumping and Countervailing Duties on Certain Products from China* (DS379).

China appealed the panel’s findings with respect to the specificity of certain subsidies, benchmarks used by Commerce in four investigations, and Commerce’s application of facts available. The United States cross-appealed, arguing that the Panel made findings with respect to certain matters that were outside of its terms of reference. On October 16 and 17, 2014, the United States, China, and third participants presented arguments before the Appellate Body.

On December 18, 2014, the Appellate Body circulated its report. On benchmarks, the Appellate Body reversed the panel and found that Commerce’s determination to use out-of-country benchmarks in four CVD investigations was inconsistent with Articles 1.1(b) and 14(d) of the SCM Agreement. On specificity, the Appellate Body rejected one of China’s claims with respect to the order of analysis in *de facto* specificity determinations. However, the Appellate Body reversed the panel’s findings that Commerce did not act inconsistently with Article 2.1 of the SCM Agreement when it failed to identify the “jurisdiction of the granting authority” and “subsidy program” before finding the subsidy specific. On facts available, the Appellate Body accepted China’s claim that the panel’s findings regarding facts available are inconsistent with Article 11 of the DSU, and reversed the panel’s finding that Commerce’s application of facts available was not inconsistent with Article 12.7 of the SCM Agreement. Lastly, the Appellate Body rejected the U.S. appeal of

the panel's finding that China's panel request met the requirements of Article 6.2 of the DSU to present an adequate summary of the legal basis its claim sufficient to present the problem clearly.

The DSB adopted the reports of the panel and the Appellate Body on January 16, 2015.

China and the United States consulted in the months that followed in an effort to agree on the reasonable period of time (RPT) for the United States to bring its measures into conformity with the DSB's recommendations and rulings, but could not reach agreement. On July 9, 2015, China requested that the WTO appoint an arbitrator to determine the RPT. The parties filed written submissions and met with the arbitrator on September 9, 2015. On October 9, 2015, the arbitrator determined that the RPT would end on April 1, 2016. Commerce has issued questionnaires, gathered data, and is currently drafting a preliminary determination for each of the challenged investigations, consistent with section 129 of the Uruguay Rounds Agreement Act.

U.S. Application of Countervailing Duties to Chinese Imports -- Domestic Litigation Involving China CVD Proceedings

In U.S. domestic courts, interested parties have been litigating under U.S. law a number of issues similar to those raised in WTO disputes, including the issue of "double remedy." In December 2011, the Court of Appeals for the Federal Circuit (CAFC) issued an opinion in *GPX Int'l Tire Corp. v. United States (GPX)* stating that, under U.S. law, Commerce could not apply the CVD law to imports from NME countries

such as China. In March 2012, in response to the *GPX* opinion and before the CAFC's ruling became final, Congress passed and President Obama signed into law Public Law 112-99. Public Law 112-99 confirmed that Commerce can apply the CVD law to imports from countries determined to be nonmarket economies for AD purposes. Public Law 112-99 also provides for Commerce to adjust AD duties to address any "double remedy" demonstrated to exist where AD duties and CVDs are applied concurrently to NME imports.

In May 2012, the CAFC granted a rehearing of the *GPX* case, and acknowledged that its earlier opinion, which was not finalized, had no legal effect because of Public Law 112-99. As a result, the CAFC held that Commerce could apply the CVD law to imports from NME countries such as China. The CAFC upheld the constitutionality of Public Law 112-99 in March 2014, and again in March 2015.²¹

United States — Countervailing and Anti-dumping Measures on Certain Products from China - DS449

In September 2012, China requested WTO consultations with respect to Public Law 112-99, contending that the effective date provision of Public Law 112-99 is inconsistent with the United States' WTO obligations. China also challenged Commerce's determinations related to the "double remedy" issue in multiple AD and CVD proceedings involving products imported from China. After consultations between China and the United States failed to resolve the dispute, the WTO DSB

²¹ *GPX Int'l Tire Corp v. United States* 780 F.3d 1136 (Fed. Cir 2015).

established a panel at China's request in December 2012.

On March 27, 2014, a WTO dispute settlement panel determined that Public Law 112-99 – including its effective date provision – is consistent with the United States' WTO obligations. The panel also found that Commerce failed to make adequate inquiries about potential "double remedies" in various AD and CVD proceedings. Both China and the United States appealed the panel report to the WTO Appellate Body, which issued its report on July 7, 2014. Although the Appellate Body reversed the legal conclusions of the panel with respect to China's claim concerning Public Law 112-99, the Appellate Body concluded that the panel's findings did not provide it with a sufficient basis to complete the analysis of whether Public Law 112-99 is consistent with WTO rules. Thus, the Appellate Body made no finding concerning Public Law 112-99's WTO-consistency. The Appellate Body affirmed the panel's findings with respect to China's "double remedy" claim involving multiple AD and CVD proceedings conducted by Commerce on Chinese imports.

On July 22, 2014, the DSB adopted its recommendations and rulings in the dispute. On August 21, 2014, the United States stated its intention to comply with the DSB recommendations and rulings, and that it would need a reasonable period of time to do so. The United States and China initially agreed to an RPT of 12 months. The United States and China subsequently agreed to extend the reasonable period of time, so as to expire on August 5, 2015. At the DSB meeting on August 31, 2015, the United States notified the DSB that it had

implemented the recommendations and rulings of the DSB in the dispute.

Canada – U.S. Softwood Lumber Agreement

The 2006 Softwood Lumber Agreement between the Government of the United States of America and the Government of Canada (SLA) was signed on September 12, 2006, and entered into force on October 12, 2006. Pursuant to a settlement of litigation, Commerce revoked the AD and CVD orders on imports of softwood lumber from Canada. (The settlement ended a large portion of the litigation over trade in softwood lumber). Upon revocation of the orders, U.S. Customs and Border Protection ceased collecting cash deposits and returned previously collected deposits with interest to the importers of record. On January 23, 2012, the United States and Canada signed a two-year extension of the SLA. This year, on October 12, 2015, the Agreement expired. Canada's new government has indicated that it is interested in negotiating with the United States a new SLA and USTR is currently in discussions with the United States domestic industry to determine its interest in pursuing such negotiations.

United States - Countervailing Measures on Certain Hot Rolled Carbon Steel Flat Products from India – DS436

On April 12, 2012, India requested WTO consultations regarding aspects of Commerce's 2001 CVD investigation, as well as certain subsequent administrative reviews, of hot-rolled carbon steel flat products from India. Consultations were held on May 31-June 1, 2012. India requested the establishment of a panel on July 12, 2012. India claimed that sections

771(7)(G) and 776(b) of the Tariff Act of 1930, and sections 351.308 and 351.511(a)(2)(i)-(iv) of Title 19 of the Code of Federal Regulations are “as such” inconsistent with the Subsidies Agreement. India also made claims against several aspects of Commerce’s CVD methodology as it was applied in determinations related to the original investigation, certain administrative reviews of the countervailing duty order, and a five-year “sunset” review of the order.

A panel in this dispute was composed in February 2013. The panel issued its report on July 14, 2014, and found in favor of the United States on the majority of issues in the dispute including important wins on benchmarks, facts available, public body, and new subsidy allegations. India subsequently filed its appeal with the Appellate Body on August 8, 2014, challenging the panel’s findings on these issues. The United States also appealed the panel’s findings, including with respect to the use of “cross-cumulation” in injury proceedings, on August 13, 2014. The Appellate Body heard arguments in September 2014, and released its report on December 8, 2014.

The Appellate Body upheld several of the panel’s findings in favor of the United States, including Commerce’s application of facts available, its examination of new subsidy allegations in administrative reviews and its specificity determinations. Importantly, the Appellate Body ruled against India on most of its claims that certain provisions of the United States’ CVD laws and regulations were “as such” inconsistent with WTO rules. The Appellate Body did conclude, however, that Commerce’s public body determinations

were inconsistent with the standards set forth by the Appellate Body in DS379, and found certain instances of its benchmark selections WTO inconsistent. In an especially troubling finding, the Appellate Body also found that “cross-cumulation” as applied in the injury determination at issue is inconsistent with the United States’ obligations under the Subsidies Agreement. The Appellate Body further found that one aspect of the U.S. statute governing “cross-cumulation” is inconsistent with that Agreement.

The DSB adopted the reports of the panel and the Appellate Body on December 19, 2014. At the DSB meeting held on January 16, 2015, the United States notified the DSB of its intention to comply with the recommendations and rulings and indicated it would need a RPT to do so. On March 24, 2015, the United States and India informed the DSB that they had agreed on an RPT of 15 months, ending on March 19, 2016.

China – Countervailing and Anti-Dumping Duties on Grain-Oriented Electrical Steel – DS414

In September 2010, the United States initiated a WTO dispute challenging China’s imposition of AD and CVD duties on imports of grain-oriented electrical steel (GOES) from the United States. GOES is a soft magnetic material used by the power generating industry in transformers, rectifiers, reactors and large electric machines. In its panel request, the United States alleged that China’s antidumping and subsidy determinations in the GOES investigations appeared to violate numerous WTO requirements. The United States was concerned, *inter alia*, that China initiated the CVD investigation without

sufficient evidence; failed to objectively examine the evidence; failed to properly conduct its analysis of injury to the domestic industry; failed to disclose “essential facts” underlying its conclusions; failed to provide an adequate explanation of its calculations and legal conclusions; improperly used investigative procedures; and failed to provide non-confidential summaries of Chinese submissions.

In its report, the panel agreed with the United States that China must do more to meet its transparency and due process commitments. In doing so, the panel found that China breached numerous WTO obligations. In particular, the panel found that China:

- Initiated the CVD investigation with respect to several alleged programs based on insufficient evidence;
- Failed to provide non-confidential summaries of Chinese submissions containing confidential information;
- Calculated the subsidy rates for U.S. companies in a manner unsupported by the facts;
- Calculated the “all others” subsidy rate and dumping margin without a factual basis;
- Failed to disclose essential facts and failed to explain its calculation of the “all others” subsidy rate and dumping margin; and
- Made unsupported findings that U.S. exports caused injury to China’s domestic industry.

In October 2012, the WTO Appellate Body rejected all of China’s claims on appeal. Specifically, the Appellate Body upheld the panel’s findings of defects in China’s

determination that U.S. exports caused adverse price effects in the Chinese market. The Appellate Body also upheld panel findings that China failed to disclose essential facts, and failed to explain its determination. The DSB recommended that China bring its measures into conformity with its WTO obligations.

China issued a redetermination on July 31, 2013. On February 13, 2014, the United States requested a compliance panel be assembled, challenging China’s injury determinations as WTO-inconsistent. On July 31, 2015, the compliance panel issued a report finding that China failed to implement the recommendation and rulings of the DSB to bring its measures into compliance with its WTO obligations. The panel’s report was adopted by the DSB on August 31, 2015. China informed the DSB at that time, however, that it terminated both the AD and CVD Orders covering GOES absent any request for initiation of an expiry review, as of April 11, 2015.

China – Antidumping and Countervailing Measures on Broiler Products from the United States DS427

In a WTO dispute initiated in September 2011, the United States challenged China’s imposition of AD and CVD duties on U.S. poultry products or “broiler parts.” Broiler parts are essentially chicken products, with a few exceptions such as live chickens and cooked and canned chicken. Many of the alleged WTO-inconsistent practices in this dispute paralleled those alleged in the ongoing GOES dispute. Consultations were held in October 2011 but were unsuccessful in resolving the dispute.

Subsequently, on December 8, 2011, the United States requested the formation of a dispute settlement panel to resolve the U.S. claims. A WTO panel was established to hear the dispute in January 2012, and seven other WTO members joined the dispute as third parties. Hearings before the panel took place in September and December 2012. In June 2013, the WTO panel issued its report, finding that China's measures were inconsistent with its WTO obligations. On the key issues the panel found the following:

- In the AD investigation, China misallocated the U.S. producers' costs of production, when it attributed the same costs to chicken feet as it did to all other chicken parts, such as breasts and legs. The result artificially inflated the AD margins.
- In the CVD investigation, China determined that the United States subsidized the provision of soybeans and corn, which was fed to chickens. Frozen chickens were exported to China, while fresh chickens were not, yet the allegedly subsidized feed was provided to both sets of chickens. Nonetheless, China's calculations incorrectly presumed that the subsidy benefited solely the frozen chickens, resulting in a gross misappropriation of the subsidy to the subject merchandise.
- China failed to provide parties with essential information (*i.e.*, the AD margin calculations) that is necessary for parties to defend their interests.

- In both the AD and CVD investigations, China's "all others rate" for those firms not individually investigated were found to be excessively high rates that had no "logical relationship with the facts on the record."
- China relied on flawed price comparisons for its determination that China's domestic industry had suffered injury.

The DSB adopted the panel report on September 25, 2013. On December 19, 2013, the United States and China agreed that the reasonable period of time for China to implement the panel's findings would extend to July 9, 2014.

On July 9, 2014, China issued its redetermination of the 2010 duties. China has indicated its intention to maintain the CVD and AD duties while it undertakes expiry reviews of its CVD and AD measures, which China initiated in August 2015, and September 2015, respectively. The United States has significant concerns with China's actions, and is continuing to consider whether to challenge China's redetermination as failing to bring China into compliance with its WTO obligations.

China – Certain Subsidy Measures Affecting the Automobile and Automobile Parts Industries – DS450

After years of extensive independent Chinese language research conducted by USTR, Commerce and, more recently, ITEC, in September 2012, the United States requested dispute settlement consultations with China concerning China's

auto and auto parts “export base” subsidy program. Under this program, China appears to provide extensive subsidies contingent on export performance to auto and auto parts producers located in designated regions known as “export bases.” These export subsidies appear to be prohibited under WTO rules and provide an unfair advantage to auto and auto parts manufacturers located in China, which are in competition with producers located in the United States and other countries. The United States also raised the following transparency claims in its consultations request: (1) China had not notified the measures in question; (2) China had not published the relevant measures in an official journal dedicated to the publication of all trade-related measures; and, (3) China had not made available to Members translations of the measures at issue in one of the official WTO languages. The United States and China held consultations in November 2012. After consultations, China removed or did not renew key provisions. The United States continues to engage in discussions to explore ways for China to address the concerns raised by the United States in this dispute.

United States – Anti-Dumping and Countervailing Measures on Large Residential Washers from Korea (DS464)

On August 29, 2013, the United States received from Korea a request for consultations pertaining to AD and CVD measures imposed by the United States pursuant to final determinations issued by Commerce following AD and CVD investigations regarding large residential washers (“washers”) from Korea.

In this dispute, Korea claims that Commerce’s countervailing duty determinations are inconsistent with U.S. commitments and obligations under Articles 1.1, 1.2, 2.1, 2.2, 10, 14, 19.4, and 32.1 of the Subsidies Agreement and Article VI:3 of the General Agreement on Tariffs and Trade 1994. Korea challenges Commerce’s determinations in the washers countervailing duty investigation that Article 10(1)(3) of Korea’s Restriction of Special Taxation Act (“RSTA”) is a subsidy that is specific within the meaning of Article 2.1 of the Subsidies Agreement; Commerce’s determination that Article 26 of the RSTA is a regionally specific subsidy; and Commerce’s calculation of the subsidy rate for one respondent, which Korea criticizes for allegedly including the benefit attributable to non-subject merchandise and for not incorporating sales of products manufactured outside Korea.

The United States and Korea held consultations on October 3, 2013. On December 5, 2013, Korea requested the establishment of a panel, and on January 22, 2014, a panel was established. On June 20, 2014, the Director General composed the panel as follows: Ms. Claudia Orozco, Chair; and Mr. Mazhar Bangash and Mr. Hanspeter Tschaeni, members. The panel held meetings with the parties in March and May of 2015 and released its confidential interim report to the parties on October 14, 2015. The panel is expected to release its public report in early 2016.

United States – Anti-Dumping and Countervailing Measures on Certain Coated Paper from Indonesia--DS491

In March 2015, Indonesia requested consultations regarding aspects of

Commerce's 2010 CVD investigation on coated paper suitable for high-quality print graphics from Indonesia, and with respect to certain aspects of the injury determination. With respect to the CVD measures, Indonesia challenges Commerce's determinations that Indonesia's provision of standing timber, log export ban and debt forgiveness program are countervailable subsidies. Indonesia claims that Commerce determined both that the standing timber was provided for less than adequate remuneration and that the log export ban distorted prices without factoring in prevailing market conditions. Indonesia also alleges, in regards to all three subsidies, that Commerce failed to examine whether there was a plan or scheme in place sufficient to constitute a "subsidy program" within the meaning of the Subsidies Agreement. Indonesia further claims that Commerce did not identify whether each subsidy was "specific to an enterprise ... within the jurisdiction of the granting authority," as required by the Subsidies Agreement. In addition, Indonesia challenges DOC's facts available determination in which it concluded that the Government of Indonesia forgave debt.

With respect to both the AD and CVD measures, Indonesia alleges that the threat of injury determination relied on allegation, conjecture, and remote possibility; was not based on a change in circumstances that was clearly foreseen and imminent; and showed no causal relationship between the subject imports and the threat of injury to the domestic industry. Indonesia alleges that the threat of injury determination therefore breached both the AD Agreement and Subsidies Agreement.

Consultations between Indonesia and the United States took place in June 2015. At its September 28, 2015 meeting, the Dispute Settlement Body granted Indonesia's request for establishment of a panel.

China — Measures related to Demonstration Bases and Common Service Platform Programs (DS489)

On February 11, 2015, the United States requested consultations regarding China's "Demonstration Bases-Common Service Platform" export subsidy program. Under this program, China appears to provide prohibited export subsidies through "Common Service Platforms" to manufacturers and producers across seven economic sectors and dozens of sub-sectors located in more than one hundred and fifty industrial clusters, known as "Demonstration Bases."

Pursuant to this Demonstration Bases-Common Service Platform program, China provides free and discounted services as well as cash grants and other incentives to enterprises that meet export performance criteria and are located in 179 Demonstration Bases throughout China. Each of these Demonstration Bases is comprised of enterprises from one of seven sectors: (1) textiles, apparel and footwear; (2) advanced materials and metals (including specialty steel, titanium and aluminum products); (3) light industry; (4) specialty chemicals; (5) medical products; (6) hardware and building materials; and (7) agriculture. China maintains and operates this extensive program through over 150 central

government and sub-central government measures throughout China.

The United States held consultations with China on March 13 and April 1-2, 2015, but the consultations did not resolve the dispute. On April 9, 2015, the United States requested the establishment of a panel, and on April 22, 2015, the WTO Dispute Settlement Body established a panel to examine the complaint. The United States and China have been engaging in further discussions regarding steps China could take to address U.S. concerns.

FOREIGN CVD AND SUBSIDY INVESTIGATIONS OF U.S. EXPORTS

In 2015, USTR and Commerce helped to defend U.S. commercial interests in CVD investigations by China, EU and Peru that involved exports of products from the United States.

China CVD Expiry Review of U.S. Broiler Products

On August 28, 2015, China's MOFCOM initiated an expiry review of its CVD measure on U.S. exports of broiler products. MOFCOM also initiated an expiry review of its AD measure beginning September 27, 2015. The AD and CVD measures have been in place since August 2010. USTR and Commerce are coordinating the participation of the relevant U.S. Federal and state government authorities responsible for administering the subsidy programs subject to this review. The U.S. Government filed its response to MOFCOM's initial questionnaire on November 30, 2015 and a response to

MOFCOM's supplementary questionnaire on January 26, 2016.

EU CVD Expiry Review of U.S. Biodiesel

On July 10, 2014, the EU initiated expiry reviews of its AD and CVD measures on biodiesel from the United States. These AD and CVD measures have been in place since July 2009. Under EU practice, expiry reviews are conducted by the European Commission's Directorate General for Trade every five years to determine whether or not AD/CVD measures should be continued for up to an additional five years. USTR and Commerce coordinated the participation of the relevant U.S. Federal and state government authorities responsible for administering the subsidy programs subject to this review. On September 15, 2015, the EU issued its final determination to continue the imposition of countervailing duties on imports of biodiesel from the United States, concluding that certain U.S. subsidy program continued to benefit the U.S. industry.

Peru CVD Investigation of U.S. Biodiesel

On August 21, 2015, the Government of Peru initiated an expiry review of the countervailing duty measure on imports of biodiesel from the United States. As a result of this proceeding, countervailing duties on imports of subject merchandise from the United States may be continued. Due to the relatively small size of Peru's market, no U.S. companies participated in the original investigation in 2009.

CVD Investigation of U.S. Dried Distillery Grains (with or without solubles)

On January 12, 2016, acting on a petition from the Chinese Wine Association on behalf of the domestic industry, MOFCOM initiated AD and CVD investigations of imports of distiller's dried grains (with or without solubles) from the United States. DDGS are distiller's grains obtained from the productions of alcohol through fermentation with corn or other grains as the raw materials. DDGS from the U.S. are largely by- or co-products from ethanol production, and are used in China as a source of animal feed. The petition alleged eight U.S. federal government subsidy programs and 32 programs state level programs. MOFCOM initiated on all of the alleged programs. USTR and Commerce are coordinating the participation of the relevant U.S. Federal and state government authorities responsible for administering the subsidy programs subject to this investigation.

U.S. Monitoring Of Subsidy-Related Commitments

WTO Accession Negotiations

Countries and separate customs territories seeking to join the WTO must negotiate the terms of their accession with current Members. Typically, the applicant submits an application to the WTO General Council, which establishes a working party to review information regarding the applicant's trade regime and to oversee the negotiations over WTO membership.

The economic and trade information reviewed by the working party includes the acceding candidate's subsidies regime.

Subsidy-related information is summarized in a memorandum submitted by the applicant detailing its foreign trade regime, which is supplemented and corroborated by independent research throughout the accession negotiation. USTR and Commerce, along with an interagency team, review the compatibility of the applicant party's subsidy regime with WTO subsidy rules. Specifically, the interagency team examines information on the nature and extent of the candidate's subsidies, with particular emphasis on subsidies that are prohibited under the Subsidies Agreement. Additionally, an accession candidate's trade remedy laws are examined to determine their compatibility with relevant WTO obligations.

U.S. policy is to seek commitments from accession candidates to eliminate all prohibited subsidies upon joining the WTO, and to not introduce any such subsidies in the future. The United States may seek additional commitments regarding any subsidies in that country that are of particular concern to U.S. industries.

Highlights in 2015 include Seychelles becoming the 161st WTO member, formally notifying the WTO on March 25, 2015, that it had ratified its Accession Protocol, and Kazakhstan becoming the 162nd WTO Member on November 30, 2015, after having notified the WTO on October 31, 2015 that it had ratified its Accession Protocol.

WTO Trade Policy Reviews

The WTO's Trade Policy Review (TPR) mechanism provides USTR and Commerce with another opportunity to review the subsidy practices of WTO

Members. The four largest traders in the WTO (the EU, the United States, Japan and China) are examined once every two years. The next 16 largest Members, based on their share of world trade, are reviewed every four years. The remaining Members are reviewed every six years, with the possibility of a longer interim period for least-developed Members. For each review, two documents are prepared: a policy statement by the government of the Member under review and a detailed report written independently by the WTO Secretariat.

By describing Members' subsidy practices, these reviews play an important role in ensuring that WTO Members meet their obligations under the WTO Agreements, including the Subsidies Agreement. In reviewing these TPR reports, USTR and Commerce scrutinize the information concerning the subsidy practices detailed in the report, but also conduct additional research on potential omissions regarding known subsidies – especially prohibited subsidies – that have not been reported.

In 2015, USTR and Commerce reviewed 14 Members' TPRs, including Madagascar, the Dominican Republic, Georgia, Haiti, the European Union, Thailand, Jordan, New Zealand, Chile, Canada, the South African Customs Union, India, the Republic of Moldova, Cabo Verde, Angola, Guyana, Australia, Pakistan, Japan, Brunei Darussalam, Barbados, Mauritius, Djibouti, and Hong Kong China.

CONCLUSION

In 2015, the U.S. government continued its strong efforts to enforce subsidy disciplines, and those efforts continued to be enhanced by the work of ITEC. The maturation of ITEC's abilities has brought an unprecedented level of focus and cooperation directed at investigating unfair trade practices around the world, including injurious, foreign government subsidies. In its first few years, ITEC has already played a critical role assisting USTR and Commerce in vigorously pursuing U.S. interests under the Subsidies Agreement.

In the future, the U.S. government will continue to focus its subsidy enforcement efforts on pursuing several significant WTO dispute settlement cases, advocating tougher subsidy disciplines in a variety of fora, pushing for greater transparency with respect to the support programs of foreign governments, and closely monitoring the actions of other WTO Members to ensure adherence to the obligations set out in the Subsidies Agreement. By actively working to address trade-distorting foreign government subsidies, the U.S. government's subsidies enforcement program is making a significant contribution to the NEI/NEXT's goal of expanding U.S. exports, advancing economic growth and encouraging job creation. Ultimately, a trading environment that is free from trade-distorting government subsidies will be more open and competitive, bringing significant economic benefits to American manufacturers, workers and consumers alike.

ATTACHMENT 1



Fostering U.S. Global Competitiveness by Combating Unfair Foreign Subsidies E&C's Subsidies Enforcement Office is Here to Help

What are Unfair Foreign Subsidies and How Do They Affect American Companies and Workers?

Under the Administration's National Export Initiative (NEI/NEXT), U.S. companies--large and small--are increasingly selling American-made products in markets across the globe. When selling overseas, many companies find themselves at a disadvantage to foreign competitors who benefit unfairly from financial assistance from foreign governments. Such "subsidies" can take many forms, including:

- *Export loans or loan guarantees at preferential rates*
- *Tax exemptions for exporters or favored companies or industries*
- *Assistance conditioned on the purchase of domestic goods*
- *R&D grants for the development and commercialization of new technologies*

What is the Subsidies Enforcement Office and What Can It Do for You?

ITA's Enforcement and Compliance (E&C) knows that U.S. exporters, manufacturers and workers can be highly successful in diverse industries and overseas markets when they can compete on a level playing field. However, it is clear that not all foreign companies or governments always play by internationally accepted rules. E&C's Subsidies Enforcement Office (SEO) is committed to confronting foreign government subsidies and related trade barriers that impede U.S. companies' and workers' ability to expand into and compete fairly in these crucial markets. With a variety of resources and tools at its disposal, the SEO provides:

- A dedicated staff that continually monitors and analyzes foreign subsidies and intervenes, where possible and appropriate, to challenge harmful foreign subsidies.
- Resources to find information on a wide range of foreign government subsidy practices, including our online [Subsidies Library](#).
- Counseling services to American companies on the tools available to address unfairly subsidized imports.
- Advice to U.S. companies whose exports are subject to foreign countervailing duty (anti-subsidy) actions and that takes an active role in such cases to defend U.S. interests.

The SEO has vigorously defended the interests of dozens of U.S. exporters subject to foreign anti-subsidy (CVD) proceedings.

What Other Remedies Are Available To Combat Unfair Foreign Subsidies?

In addition to the SEO services noted above, under the U.S. trade remedy laws and international trade rules if a foreign subsidy meets certain conditions, the U.S. government could take the following steps, where appropriate:

- Impose special duties (*i.e.*, countervailing duties) on subsidized imports that are injuring U.S. industries.
- Challenge foreign subsidization through the dispute settlement system of the World Trade Organization.

What is the Next Step?

Contact the SEO if you believe subsidized imports are harming your company, or foreign subsidies or foreign countervailing duty proceedings are impeding your ability to export and compete abroad. SEO experts can evaluate the situation to determine what tools under U.S. law and international trade rules are available to effectively address the problem. Working together we can combat harmful foreign subsidies, to ensure that high quality, export-related jobs in the United States are created and preserved.

ATTACHMENT 2

THE SUBSIDIES ENFORCEMENT LIBRARY

[<http://esl.trade.gov>]

First Screen

[Please note: the SEO is continuing to implement certain improvements to the website; as a result, its appearance may continue to change somewhat, but the basic contents will remain the same.]

The screenshot shows the Electronic Subsidies Enforcement Library (ESEL) website. The header features the International Trade Administration logo and a search bar. Navigation links include About ITA, Press, Publications, Contact ITA, and Help. The main content area is titled "ELECTRONIC SUBSIDIES ENFORCEMENT LIBRARY" and includes a "Link to Advanced Search" button. Search filters include Case Name, Country (dropdown), Program Name, Industry (dropdown), and Full-Text Search. Results are displayed as "Results Per Page: 100" and "Sort By: Release Date" (Descending). A "Search" button is at the bottom. The left sidebar lists ITA Goals and ITA Organizations. The right sidebar contains links for SEO, Subsidy Programs, WTO Notifications, and Reports to Congress.

Main Features of the Webpage

Review and Operation of the WTO Subsidies Agreement (June 1999)

This links to the June 1999 Report to Congress regarding the operation of the WTO Subsidies Agreement.

Subsidies Library

This is the gateway to the library. The visitor can click on the links under this heading to access information regarding subsidy programs that have been analyzed by Enforcement and Compliance staff in the course of CVD proceedings since 1980.

Published Since 2007 - This links to subsidy programs analyzed in the most recent CVD decisions since 2007. By clicking on this link, the visitor can access a search feature to find programs by entering terms or dates, or selecting from a list of terms (such as country name), in various boxes where indicated. Clicking on the "search" button will execute a search based on the terms and dates selected, and open a "search results page" displaying the relevant CVD decisions arranged in reverse chronological order from top to bottom. The visitor can then click on the decision title to access a copy of the decision for review.

Published Prior to 2007 - This links to subsidy programs analyzed in earlier CVD proceedings through 2007. The information is provided by country and then subdivided into various categories, based on the Department of Commerce's finding in the proceeding. More detailed information about a program in a specific case can be easily found by clicking on the hyperlinked cite to the Federal Register notice, in which a complete description of the program and Commerce's analysis is provided.

Home

This link will take the visitor back to the SEO homepage.

Overview

This links to the informational page found in Attachment 1 of this Report, which includes a general overview of the SEO as well as contact information.

FAQ

This link contains "frequently asked questions" that the visitor can consult for additional information regarding the SEO and the subsidies library.

Contact Us

This link will automatically open up an email form with the SEO's email address, which the visitor can use to submit comments or questions. SEO staff aims to respond to all relevant queries within a week.

WTO Agreement

This links to the WTO Subsidies Agreement, as found in the Multilateral Agreement on Trade in Goods. Information in this Agreement includes the definition of a subsidy and provides general guidelines under which remedies may be put in place.

Subsidy Programs

This is an alternative link to the subsidy library with the same information as "Subsidies Library" above.

WTO Notifications

This links to the WTO's public document download cite where one can access all unrestricted WTO subsidy notifications by every WTO Member, listed either by date or by country. The notifications available for download through this link will provide a list of all Members' notified subsidies, in addition to specific information concerning each subsidy program, such as the type of incentive provided, the duration and purpose of the program, and the legal measure that established the program. Although the Subsidies Agreement stipulates that the notification of a measure does not prejudice its legal status under the Agreement, these notifications do provide detailed information concerning a number of countries' subsidy measures. In the event that less than full information about the program is provided, the Subsidies Enforcement Office, working with other U.S. agencies, seeks more detailed information.

Reports to Congress

This links to the most recent SEO Annual Report to Congress, as well as past Annual Reports.

ATTACHMENT 3

Status of Programs Under Extension of the Transition Period Pursuant to Article 27.4 of the Subsidies Agreement		
WTO MEMBER	NAME OF PROGRAM	Status
ANTIGUA & BARBUDA	Fiscal Incentives Act	Phase-out period
	Free Trade/Processing Zones	Phase-out period
BARBADOS	Fiscal Incentive Program	Phase-out period
	Export Allowance	Phase-out period
	Research & Development Allowance	Phase-out period
	International Business Incentives	Phase-out period
	Societies with Restricted Liability	Phase-out period
	Export Re-discount Facility	Extension previously not requested
	Export Credit Insurance Scheme	Extension previously not requested
	Export Finance Guarantee Scheme	Extension previously not requested
	Export Grant & Incentive Scheme	Extension previously not requested
BELIZE	Fiscal Incentives Program	Phase-out period
	Export Processing Zone Act	Phase-out period
	Commercial Free Zone Act	Phase-out period
	Conditional Duty Exemption Facility	Extension previously not requested
BOLIVIA (Annex VII Country)	Free Zone	Reservation of rights. No action taken.
	Temporary Admission Regime for Inward Processing	Reservation of rights. No action taken.
COSTA RICA	Duty Free Zone Regime	Phase-out period
	Inward Processing Regime	Phase-out period
DOMINICA	Fiscal Incentives Program	Phase-out period
DOMINICAN REPUBLIC	Law No. 8-90, to "Promote the Establishment of Free Trade Zones"	Phase-out period
EL SALVADOR	Export Processing Zones & Marketing Act	Phase-out period
	Export Reactivation Law	Extension previously not requested
FIJI	Short-Terms Export Profit Deduction	Phase-out period
	Export Processing Factories/Zones Scheme	Phase-out period
	The Income Tax Act (Film Making & Audio Visual Incentive Amendment Degree 2000)	Extension previously not requested

GRENADA	Fiscal Incentives Act No. 41 of 1974	Phase-out period
	Qualified Enterprise Act No. 18 of 1978	Phase-out period
	Statutory Rules and Orders No. 37 of 1999	Phase-out period
GUATEMALA	Special Customs Regimes	Phase-out period
	Free Zones	Phase-out period
	Industrial and Free Trade Zones (ZOLIC)	Phase-out period
HONDURAS (ANNEX VII COUNTRY)	Free Trade Zone of Puerto Cortes (ZOLI)	Reservation of rights. No action taken.
	Export Processing Zones (ZIP)	Reservation of rights. No action taken.
	Temporary Import Regime (RIT)	Reservation of rights. No action taken.
JAMAICA	Export Industry Encouragement Act	Phase-out period
	Jamaica Export Free Zone Act	Phase-out period
	Foreign Sales Corporation Act	Phase-out period
	Industrial Incentives (Factory Construction) Act	Phase-out period
JORDAN	Income Tax Law No. 57 of 1985, as amended	Phase-out period
KENYA (ANNEX VII COUNTRY)	Export Processing Zones	Reservation of rights. No action taken.
	Export Promotion Program Customs & Excise Regulation	Reservation of rights. No action taken.
	Manufacture Under Bond	Reservation of rights. No action taken.
MAURITIUS	Export Enterprise Scheme	Extension previously not requested
	Pioneer Status Enterprise Scheme	Extension previously not requested
	Export Promotion	Extension previously not requested
	Freeport Scheme	Phase-out period
PANAMA	Export Processing Zones	Phase-out period
	Official Industry Register	Phase-out period
	Tax Credit Certificates (CAT)	Extension previously not requested
PAPUA NEW GUINEA	Section 45 of the Income Tax Act	Phase-out period
SRI LANKA (ANNEX VII COUNTRY)	Income Tax Concessions	Reservation of rights. No action taken.
	Tax Holidays & Profits Generated	Reservation of rights. No action taken.
	Concessionary Tax on Dividends	Reservation of rights. No action taken.
	Indirect Tax Concessions - Internal Tax Exemptions	Reservation of rights. No action taken.
	Export Development Investment Support Scheme	Reservation of rights. No action taken.
	Import Duty Exemption	Reservation of rights. No action taken.

	Exemption from Exchange Control	Reservation of rights. No action taken.
ST. KITTS & NEVIS	Fiscal Incentives Act	Phase-out period
ST. LUCIA	Fiscal Incentives Act	Phase-out period
	Micro & Small Scale Business Enterprise Act	Phase-out period
	Free Zone Act	Phase-out period
ST. VINCENT AND THE GRENADINES	Fiscal Incentives Act	Phase-out period
URUGUAY	Automotive Industry Export Promotion Regime	Phase-out period