



STANDING UP FOR AMERICAN WORKERS
AND BUSINESSES:
THE OBAMA ADMINISTRATION'S
TRADE ENFORCEMENT RECORD

February 2016



*This report was prepared by
the National Economic Council*

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PROTECTING AMERICAN WORKERS & BUSINESSES:
The Obama Administration's
Trade Enforcement Record

Executive Summary

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“I have made rigorous trade enforcement a central pillar of U.S. trade policy, and we have moved aggressively to protect American workers and to improve labor laws and working conditions with trading partners across the globe.”

President Barack Obama, 5/19/2015

Today, President Obama is signing the bipartisan Trade Facilitation and Trade Enforcement Act of 2015 into law. Often referred to as “customs” legislation, it strengthens our tools for holding trading partners and foreign industries accountable on their obligations to trade fairly and openly. This legislation represents an ambitious upgrade in our government’s trade enforcement capabilities. From day one, the President and his Administration have set out to build a far more capable enforcement system, and the result has been a record of trade enforcement victories that are helping to level the playing field for American workers, businesses, farmers, and ranchers.

The Administration has enlisted all of the relevant agencies and used all the tools at its disposal to identify, monitor, enforce, and resolve the full range of international trade issues, so that American workers and businesses receive the benefits they are due under our trade and investment agreements. Those tools include pre-dispute engagement, which aims to push trading partners and industries to meet their obligations without having to resort to dispute settlement or other formal proceedings. However, if partners fail to live up to their obligations, formal dispute settlement mechanisms established under broad, multilateral agreements such as the World Trade Organization (WTO), as well as regional and bilateral free trade agreements, can help hold trading partners accountable. Domestic trade laws also provide mechanisms for U.S. industry to seek remedies to level the playing field for imports dumped by foreign companies or unfairly subsidized by foreign governments. For every case we bring, there are many multiples that are re-

solved before coming to a public declaration of formal dispute proceedings. But where countries or foreign industries are competing unfairly, we have not hesitated to act aggressively to protect American workers and businesses, leveling the playing field for Made-in-America products. To date, this strong enforcement record includes:

- **Aggressively Pursuing—and Winning—Cases at the World Trade Organization (WTO):** Since 2009, the Obama Administration has brought 20 enforcement cases at the World Trade Organization (WTO)—more than any other WTO member—achieving removal of barriers and increased export opportunities worth billions of dollars to American workers and firms. This includes 11 complaints against China, substantially higher than the prior Administration. And the United States has won every one of these cases that has been decided—with wins against China on products from poultry to autos to high-quality steel. The Administration also took the first-ever safeguard action under Section 421 of the Trade Act of 1974 against China to protect jobs in the domestic tire manufacturing industry and then successfully defended that action at the WTO. In addition to our record of success in complaints against China, we’ve also won consequential cases against the EU for \$18 billion in illegal aircraft subsidies; against India to end its illegal ban on U.S. poultry and other agricultural products; against Argentina for import licensing affecting almost all U.S. exports; and against the Philippines for taxes on distilled spirits.
- **Levying Anti-Dumping and Countervailing Duty Penalties on Foreign Industries and Trading Partners at the Highest Rate in 14 Years, Particularly Important to the Steel Industry:** The United States is currently enforcing 325 antidumping (AD) and countervailing duty (CVD) orders and initiated 62 investigations in Fiscal Year 2015, which is the largest number of investigations initiated in 14 years. Commerce and CBP are enforcing 149 AD/CVD orders against foreign steel, representing nearly half of all cases.
- **Making Labor Rights Enforcement a Priority:** The Obama Administration has also made unprecedented efforts to address labor rights, bringing the first ever labor case under a free trade agreement (FTA)—against Guatemala—and undertaking initiatives with our FTA partner countries to strengthen workers’ rights in Honduras, Colombia, Panama, Bahrain, Jordan, Burma, Bangladesh, and others.
- **Coordinating Efforts Across the Administration and Institutionalizing that Coordination:** The President created the Interagency Trade Enforcement Center (ITEC) by Executive Order in 2012, which brings together researchers, analytical resources, and expertise from across the Federal Government into one organization, significantly enhancing the capability of the United States to investigate foreign trade practices that are potentially unfair to American industry and American workers. The Trade Enforcement Act that the President is signing into law today will permanently establish the successor to ITEC, the Interagency Center on Trade Implementation, Monitoring, and Enforcement. The ITEC has provided crucial investigative and analytical resources for WTO disputes brought against China and other trading partners, including export subsidies provided by China to its auto and auto parts manufacturers and to a variety of industries in so-called “Demonstration Bases.”
- **Passing the Customs Bill to Strengthen Trade Enforcement Authority:** The Trade Enforcement Act that the President is signing today will provide critical tools for the Administration to hold its trading partners accountable. The bill strengthens the ability of Customs and Border Protection (CBP) to combat foreign companies trying to evade the duties that have been imposed on them for violations of U.S. trade laws and their international obligations; includes

new tools to enhance engagement with countries that do not adequately and effectively protect intellectual property rights; helps prevent the flow of counterfeit goods into the United States; authorizes a first-ever \$15 million Trade Enforcement Trust Fund; and provides new, unprecedented tools to address unfair currency practices.

- **Stepping up Customs and Border Protection Inspections:** Today, in addition to the Trade Enforcement Act signing, CBP also announced that it has stepped up its reviews of steel imports, while requiring that all entry documents and duties be provided on certain shipments before cargo is released by CBP into the United States, referred to as “live entry.” For Fiscal Year 2016, the President signed into law a 10 percent increase in trade enforcement funding for the Department of Commerce, which will be used to hire 38 new staff members to support the AD/CVD and trade compliance workload. Commerce will also hire five new staff members to support trade agreements compliance work.
- **Increasing Funding for Trade Enforcement:** The Administration is seeking robust funding for trade enforcement. The 2017 President’s Budget requests \$606 million for CBP trade administration activities and 3,816 FTE to implement this work. This includes the salaries of CBP trade and revenue staff within the Office of Field Operations, ten Centers of Excellence and Expertise for centralized processing and industry engagement, trade enforcement policy and program activities within the Office of International Trade, and the development and deployment of the Automated Commercial Environment (ACE). Together, these investments combine effective risk segmentation, enhanced targeting, and expanded shipper vetting to allow CBP to focus scarce law enforcement resources on the relatively small number of shipments that have potential to cause harm. In addition, the President’s Budget funds the Department of Commerce’s International Trade Administration’s Enforcement and Compliance Program at \$84 million, a \$4.5 million increase over the 2016 enacted level. This includes 347 FTE who work to take prompt and aggressive action against unfair foreign trade practices and foreign government-imposed trade barriers. The President’s Budget annualizes the 38 positions established by the 2016 Consolidated Appropriations Act, adding 12 FTE to address the urgent need for additional staffing caused by the sustained and significant increase in AD/CVD cases. At the Department of State/USAID, the Administration requests \$45 million in the President’s Budget to help less developed trading partners meet the high standards that our agreements require.

In the final year of the Administration, we are continuing to build on the Administration’s enforcement record. This paper outlines a number of steps we are taking. ■

Summary of the Trade Facilitation and Trade Enforcement Act of 2015 the President is Signing Today

The Trade Facilitation and Trade Enforcement Act of 2015 that President Obama is signing today, includes new tools and resources to help ensure that our trading partners live up to their commitments. This bipartisan bill:

- Establishes the Interagency Center on Trade Implementation, Monitoring, and Enforcement at USTR which brings together expertise from across government to aid in monitoring and enforcing U.S. trade agreements. This codifies into law an initiative first established by the President in his 2012 Executive Order that set forth an interagency approach to boosting enforcement efforts.
- Creates a Trade Enforcement Trust Fund to provide new resources – authorized at \$15 million per year up to a cap of \$30 million total – for trade enforcement efforts.
- Improves our ability to target trading partners who attempt to evade U.S. antidumping or countervailing duty orders.
- Bolsters enforcement tools to protect intellectual property rights, including by authorizing the seizure of circumvention devices, and by facilitating the seizure of suspect merchandise through improved coordination with intellectual property right holders.
- Strengthens the prohibition on importing goods made by forced labor by closing a previous loophole that permitted imports of goods made with forced labor if consumption demand for a good could not be met by American producers. The legislation removes the exception.
- Gives the United States unprecedented new measures to address unfair currency practices. The legislation creates a new mechanism to confront countries that engage in unfair currency practices and requires the Administration to impose penalties on countries that fail to work with us.
- Mandates a strategic multi-year plan for trade enforcement produced by the U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.
- Establishes Centers of Excellence and Expertise for trade enforcement throughout U.S. Customs and Border Protection to bolster trade enforcement at ports of entry.
- Strengthens our ability to enforce intellectual property rights by creating a National Intellectual Property Rights Coordination Center and setting staffing and training requirements that enhance the federal government’s enforcement of IP rights at our borders.
- Ensures that U.S. Customs and Border Protection personnel are trained in the detection, identification, seizure, and forfeiture of cultural property, archaeological or ethnological materials, and fish, wildlife and plants that are taken illegally.

- Requires a report on the effectiveness of trade enforcement activities including looking at fraud prevention and transshipments.
- Improves international cooperation among law enforcement and customs officials to strengthen intellectual property rights enforcement. ■

Trade Enforcement Has Been a Priority Under President Obama

A. WTO Cases

The Obama Administration's unprecedented enforcement efforts benefit American workers and U.S. industry by leveling the playing field and by demonstrating our commitment to upholding trade rules to support future American economic growth and jobs. This takes on even greater meaning when we finalize cutting-edge new trade agreements like the Trans-Pacific Partnership that play to American advantages and contain the strongest labor and environmental standards in history. The Administration's trade enforcement record at the WTO has included:

Bringing 20 Cases to the WTO and Winning Every Case That's Been Decided

United States Trade Representative has lodged 20 WTO complaints since 2009, more than any other WTO Member. Of those, USTR has prevailed in every case decided so far—we've won 12 disputes through litigation and settled 1 case favorably.

Significantly Increasing the Rate of Cases Against China

The Obama Administration has also significantly increased the rate of cases brought against China compared to the last Administration, winning all seven of those decided to date and settling another favorably.

Focusing on Key, Strategic Markets for U.S. Exporters

Since 2009, USTR has focused on key, strategic markets, including: China (11 complaints); India and Indonesia (3 complaints each); and the European Union, Argentina, and the Philippines (1 each).

Protecting Billions of Dollars of Opportunity for U.S. Exports

Our trade enforcement actions have sought to open and preserve major export markets, including: 1) Autos in China (China dropped AD/CVDs on more than \$5 billion in exports); 2) Solar in India (an estimated \$1 billion market); and 3) Poultry in China (challenging illegal duties for this \$1 billion export market, by industry estimates).

Ending Unfair Trade Practices

Our trade enforcement actions have targeted unfair trade practices—including seeking to end \$18 billion in European Union subsidies to Airbus; eliminating restrictions on American-made products through discretionary licensing on nearly \$11 billion in annual exports to Argentina; and ending an unjustified ban on U.S. poultry in India, which is potentially a \$300 million per year exports market, by industry estimates.

Benefitting Small Businesses That Represent 98 Percent of American Exporters

98 percent of the American companies that export are small and medium-sized businesses.

However, small businesses often lack the resources to take on unfair trade barriers. President Obama has targeted trade enforcement cases to take on policies that are specifically harmful to our small business exporters, such as burdensome agricultural and technical regulations, re-

20 Offensive WTO Complaints

11 China Complaints (including compliance with WTO rulings)

Value Added Tax (2015)

Outcome: Ongoing

USTR initiated a WTO challenge to Chinese measures exempting certain aircraft produced in China from a 17 percent value-added tax while imposing those taxes on imported aircraft.

Demonstration Base/Common Service Platform Export Subsidies (2015)

Outcome: Ongoing

USTR initiated a WTO challenge to China's measures that appear to establish a program of prohibited export subsidies. The measures, provide an unfair advantage to businesses located in China, distorting competition with American-made products.

High-Tech Steel AD/CVD compliance (2014)

Outcome: Win

WTO found in favor of U.S. challenge to China's failure to follow WTO's 2010 ruling, and China terminated the duties. This case is the first-ever compliance proceeding brought against China in the WTO.

Export Bases for Automobile & Automobile Parts (2012)

Outcome: Ongoing

USTR challenged a Chinese export subsidies program to auto and auto parts enterprises in China. U.S. efforts to address this program are ongoing.

Autos AD/CVD Determinations (2012)

Outcome: Win

WTO found in favor the U.S on China's impermissible antidumping and countervailing duties on U.S. exports of cars and SUVs. China terminated the duties on over \$5 billion in U.S. exports.

Export Restraints on Raw Materials II ("Rare Earths") (2012)

Outcome: Win

WTO found in favor of the U.S. on China's impermissible export restraints on rare earths, tungsten and molybdenum.

Broiler Products AD/CVD Determinations (2011)

Outcome: Win

WTO found in favor of the U.S. on China's impermissible antidumping and countervailing duties on U.S. poultry product exports.

Wind Power Equipment Prohibited Subsidies (2010)

Outcome: Settled Favorably

USTR issued WTO challenge against subsidies China provided to manufacturers in the wind power equipment sector. China terminated the challenged subsidy program.

High-Tech Steel AD/CVD Determinations (2010)

Outcome: Win

WTO found in favor of the U.S. in a dispute challenging China's impermissible antidumping and countervailing duties on U.S. exports of high-tech steel.

Electronic Payment Services (2010)

Outcome: Win

WTO found in favor of the U.S. in a dispute challenging China's impermissible rules discriminating against U.S. suppliers of electronic payment services, such as credit and debit card companies.

Export Restraints on Raw Materials (2009)

Outcome: Win

WTO found in favor of the U.S. in a dispute challenging China's impermissible export restraints on nine key raw materials affecting steel, aluminum and chemical sectors.

9 Other Complaints (including compliance with WTO rulings)

Indonesia

Import Licensing III (2014)

Outcome: Ongoing

USTR is engaged in a WTO challenge to Indonesia's wide-ranging import restrictions on fruits and vegetables (such as apples, grapes, and potatoes), animal products (such as beef and poultry), and other agricultural products.

India

Solar Local Content II (2014)

Outcome: Win

USTR won a victory at the WTO over Indian measures that discriminated against U.S. solar energy equipment—a win that will benefit deployment of solar energy across the world and protect clean energy jobs in the U.S.

Indonesia

Import Licensing II (2013)

Continued in Import Licensing III

Outcome: Ongoing

USTR initiated a second WTO challenge to revisions Indonesia made to its wide ranging import restrictions on horticultural products, poultry, beef, and other animal products.

India

Solar Local Content (2013)

Combined with Solar Local Content II

Outcome: Win

USTR won a victory at the WTO over Indian measures that discriminated against U.S. solar energy equipment.

Indonesia

Import Licensing I (2013)

Continued in Import Licensing II/III

Outcome: Ongoing

USTR initiated a WTO challenge to Indonesia's wide ranging import restrictions on horticultural products, poultry, beef, and other animal products.

Argentina

Import Licensing (2012)

Outcome: Win

WTO found in favor of the U.S. in a dispute challenging Argentina's widespread restrictions on the importation of U.S. goods.

India

Poultry (2012)

Outcome: Win

WTO found in favor of the U.S. in a dispute challenging India's ban on various U.S. agricultural products—such as poultry meat, eggs, and live pigs—allegedly to protect against avian influenza.

EU

Large Civil Aircraft ("Airbus") compliance (2011)

Outcome: Ongoing

The WTO upheld U.S. claims that EU subsidies to Airbus caused adverse effects to U.S. interests. USTR is now challenging EU's failure to comply with its obligations to withdraw the subsidies or remove their adverse effects.

Philippines

Taxes on Distilled Spirits (2010)

Outcome: Win

WTO upheld U.S. claims that Philippine excise taxes

strictive licensing requirements, and limits on American auto parts manufacturers. Several cases offer especially important economic impacts for small and medium-sized businesses. These include WTO challenges against Chinese export subsidies for makers of auto parts, hardware and building materials, furniture, and ceramics, Indian use of non-science-based import restrictions to block poultry imports, and unfair import licensing rules in Argentina.

CHINA-SPECIFIC WTO ACTIONS

The Obama Administration has been especially aggressive in its pursuit of WTO cases to seek redress for China's unfair trade practices. Since 2009, under President Obama, the United States has brought 11 WTO Complaints against China (more than half of the 20 total). Of those, USTR has prevailed in every case decided so far—seven complaints won through litigation and one case settled favorably:

WINS

Two U.S. Victories Led China to Revoke Unfair Taxes on High Tech Steel from the United States

In 2010, the Obama Administration successfully sued China when it effectively blocked U.S. steel imports through unfair duties. We disagreed when China said that it had brought its duties in line with WTO rules and sued China again. In 2015, the WTO again agreed that China was breaking WTO rules. This enforcement victory led to China reopening a more than \$250 million market for American steel exports of grain oriented electrical steel (GOES), directly benefiting our nation's steelworkers. GOES is a high-tech, steel that is primarily used by the power generating industry in transformers, rectifiers, reactors, and large electric machines. AK Steel Corporation and Allegheny Ludlum, based in Pennsylvania, manufacture GOES in the United States.

WIN

U.S. Victory in Complaint to Stop China from Discriminating Against American Electronic Payment Services, Such As Credit and Debit Cards

September 2010, the U.S. challenged China's restrictions and requirements on electronic payment services (EPS) for payment card transactions and the suppliers of those services. Each year well over one \$1 trillion worth of electronic payment card transactions are processed in China. In 2012, the WTO agreed with the United States that China's measures discriminate against U.S. suppliers. China has taken some steps to address the problems identified by the WTO, and the Administration continues to work with U.S. stakeholders and China to ensure American credit and debit card companies' fair access to China's market.

WIN

We Won a Complaint Against Unlawful Chinese Duties on U.S. Poultry

September 2011, the United States challenged China's AD/CVD duties on U.S. exports of chicken "broiler products." According to industry estimates at the time, the U.S. poultry industry stood to lose approximately \$1 billion in sales to China by the end of 2011. In June 2013, the WTO agreed that China's measures were inconsistent with its WTO commitments. China issued a new measure in response to the WTO finding in 2014. The United States is reviewing that measure.

WIN

We Stood Up for American Auto Workers and Businesses and Got China to Terminate Arbitrary Duties on \$5 Billion of Made-In-America Autos

In 2014 the Obama Administration won a major trade enforcement case against China on behalf of U.S. auto manufacturers and the more than 900,000 American automotive industry manufacturing workers around the country, from Michigan to Ohio to California. In that case, the WTO agreed with the United States that China's imposition of antidumping duties and countervailing duties on American-made cars and sport-utility vehicles (SUVs) breached numerous international trade rules. In 2013, the United States exported over \$60 billion of autos, with about 15 percent of the total, going to China. China is now the second largest export market for U.S. autos, after Canada. China's unjustified duties, which ranged up to 21.5 percent, affected an estimated \$5.1 billion worth of U.S. auto exports in 2013, and were applied to well-known models such as the Jeep Grand Cherokee, Buick Enclave, Cadillac Escalade, and many others.

WIN

U.S. Victory Led China to Eliminate Export Restraints on Nine Raw Materials Important to Making Steel, Aluminum, and Chemical Products

In June 2009, the United States challenged China's export restraints on nine raw materials to create a level playing field for U.S. workers and businesses that manufacture downstream products in the steel, aluminum and chemical sectors. The export restraints enabled China's downstream producers to obtain a dramatic competitive advantage by significantly decreasing their input costs. For example, in 2008, the input cost for coke was 36 percent less for Chinese domestic steel producers than their foreign counterparts. In 2011, the WTO found China's quotas and duties to be inconsistent with its WTO commitments. In December 2012, China eliminated the offending measures.

WIN

We Forced China to Eliminate Export Illegal Export Duties and Quotas on Rare Earths

In March 2012, the United States challenged China's export restraints on rare earths, tungsten and molybdenum products. China is the world's leading producer of rare earths, producing an estimated 130,000 metric tons of rare earth oxide, which accounted for approximately 97 percent of global production in 2011. In all, China's export restraints on the materials at issue in this dispute cover approximately 100 tariff codes. The United States brought this dispute to create a level playing field for U.S. workers and businesses that manufacture many important downstream products in the United States, including hybrid car batteries, wind turbines, energy-efficient lighting, steel, advanced electronics, automobiles, petroleum and chemicals. In late 2014, the WTO agreed with the United States and found that China's export restraints are inconsistent with WTO rules. China announced that it has eliminated WTO-inconsistent export duties and quotas on these products. The United States is closely monitoring China's actions to ensure that these illegal policies are in fact discontinued and that China fully complies with its obligations.

SETTLED FAVORABLY

China Backed Down and Eliminated Hundreds of Millions of Dollars of Subsidies to China's Wind Power Sector

In December 2010, following a petition from the United Steelworkers, the United States initiated a WTO case challenging subsidies that China provided to manufacturers in its wind power equipment sector. The subsidies appeared to require the use of local content, at the expense of foreign manufacturers' products. At the time of the dispute, grants provided under this program

from 2008 to 2010 totaled several hundred million dollars. In response to USTR's challenge, China terminated the challenged subsidy program.

DEFENDED SUCCESSFULLY

China Lost its Challenge to Our Actions to Protect American Workers in the Tire Industry

The Administration also took the first-ever safeguard action under Section 421 of the Trade Act of 1974 against China to protect jobs in the domestic tire manufacturing industry. Through the Section 421 safeguard, President Obama imposed tariffs on Chinese tires and later successfully defended that action at the WTO.

ADDITIONAL WINS AT THE WTO

In addition to the wins against China, the United States has prevailed in five other major WTO complaints that have been decided:

WIN

Benefitted American Poultry Workers and Businesses by Taking on India's Ban on U.S. Poultry

In 2015 the U.S. won a major victory for the U.S. poultry industry and its workers after suing India over an unfair ban on our poultry, meat, and eggs. The U.S. poultry industry, which directly employs hundreds of thousands of workers and consists of tens of thousands of family farms, has been particularly affected by India's restrictions. The industry estimates that U.S. exports to India of just poultry meat alone could exceed \$300 million a year once India's restrictions are removed - and are likely to grow substantially in the future as India's demand for high-quality protein increases. Exports are important to the health of this industry. The United States exports 18 percent of its poultry meat production, with U.S. domestic exports for poultry meat, eggs, and other poultry products worth approximately \$6.5 billion to over 136 countries in 2014. This successful challenge at the WTO is an important step forward in fully opening India's markets.

WIN

Cracked Down on Argentina's Restrictions on U.S. Exports Across a Variety of Products

In 2015 the U.S. won a trade enforcement victory against Argentina that involved its widespread restrictions on the importation of a range of U.S. goods. The restrictions by Argentina affected billions of dollars in U.S. exports, including energy products, electronics and machinery, aerospace and parts, pharmaceuticals, precision instruments and medical devices, miscellaneous chemicals, motor vehicles, vehicle parts, and agricultural products. The following U.S. states represented the largest share of exports to Argentina in 2015, each exporting over \$100 million in goods that year: Texas, Louisiana, Florida, Washington, Michigan, New Jersey, Illinois, California, Tennessee, South Carolina, New York, Pennsylvania, Georgia, Ohio, North Carolina, Indiana, Wisconsin, Virginia, and Maryland.

WINS

Challenged India on Discriminatory Policies on Imported Solar Cells

In February 2013 and February 2014, the United States challenged India's "localization" rules discriminating against imported solar cells and modules under two phases of India's National Solar Mission. The United States initiated the challenge in order to ensure that world-class U.S. clean energy goods can compete on an equal footing and can continue to support American jobs and manufacturing. The United States strongly supports the rapid deployment of solar energy around

the world—including in India—but discriminatory policies in the clean energy space undermine efforts to promote clean energy by requiring the use of more expensive and less efficient equipment. The U.S. has consistently made the case that India can achieve its clean energy goals faster and more cost effectively by allowing solar technologies to be imported from the United States and other solar producers. In February 2016, a World Trade Organization (WTO) dispute settlement panel found in favor of the United States that India's domestic content requirements are inconsistent with WTO rules that prohibit discrimination against imported products. These enforcement wins are a significant victory for both rapid deployment of solar energy across the world, and for U.S. clean energy jobs that rely on exports.

WIN

Challenged Subsidies Affecting American Aerospace Workers and Businesses, Including a Large Network of American Suppliers

The U.S. case targeting the European Union's \$18 billion in Airbus subsidies will bring enormous benefits to American aerospace workers and companies of all sizes by bringing about a more level playing field and limits on new civil-aircraft subsidy programs. This is particularly important for machinists and engineers in regions like the Pacific Northwest and Southeast as well as for aerospace suppliers that support well-paying American jobs across the country.

B. Particular Issue Highlights

LABOR ENFORCEMENT

The United States has also broken new ground on the enforcement of labor rights, including the first-ever case under a trade agreement to seek the enforcement of worker rights.

Guatemala

The Obama Administration is the first to make use of the dispute settlement mechanism to stand up for workers' rights. This case, filed against Guatemala challenging its enforcement of its labor laws relating to the right of association, the right to organize and bargain collectively, and acceptable work conditions under the CAFTA-DR agreement, sends the strong signal that the United States will use the full range of tools at our disposal, including formal dispute settlement, to ensure that workers' rights are protected. Findings in the case are expected to be issued by the arbitral panel in 2016.

Bahrain

We pursued formal consultations under the United States-Bahrain FTA to address concerns regarding targeting of union leaders in the events surrounding the 2011 Arab Spring civil unrest. Bahrain has made important progress, such as reinstating the vast majority of workers who had been dismissed in that process, but significant challenges remain and USTR and the Department of Labor (DOL) are continuing to engage to try to resolve them.

Colombia

A long and constructive engagement with Colombia led to negotiation of the extensive Colombian Action Plan Related to Labor Rights designed to address longstanding concerns relating to violence against labor leaders, impunity for such acts and protection of labor rights. Important progress has been made but much more work remains. The Action Plan celebrates its 5th anni-

2014 Top Seized Commodities (by number of seizures)

1. Wearing Apparel/Accessories	6. Optical Media
2. Consumer Electronics	7. Computer/Accessories
3. Pharmaceuticals/Personal Care	8. Labels/Tags
4. Footwear	9. Toys
5. Watches/Jewelry	10. Other

versary in 2016.

Jordan

Our engagement has produced an Implementation Plan Related to Working and Living Conditions of Workers that is helping to address concerns about workers' rights and working conditions in Jordan's garment sector, particularly with respect to foreign workers. Jordan has issued new standards for dormitory inspections, submitted new labor legislation to its parliament and hired new labor inspectors. USTR and DOL continue to work with Jordan on the issues under the Plan.

Bangladesh, Swaziland, and Haiti

The Administration has effectively utilized the tools in U.S. preference programs to protect labor rights. Each of these countries is eligible or potentially eligible for benefits under different programs—Bangladesh under the Generalized System of Preferences (GSP), Swaziland under the African Growth and Opportunity Act (AGOA) and Haiti under the HOPE program. These programs all condition preferential market access on meeting certain country eligibility criteria, including criteria relating to labor rights. The Obama Administration has effectively made use of all three preference programs to leverage progress on a range of serious labor issues: from lack of worker voice, to building and fire safety concerns, to acts of violence and intimidation towards union organizers, to employment-related sexual harassment.

Burma

We launched the Initiative to Promote Fundamental Labor Rights and Practices in Burma, which established a partnership between the United States, Burma, Japan, Denmark, the European Union, and the International Labor Organization to advance labor rights and protections for workers in Burma. The Initiative takes a multilateral, multi-stakeholder approach to strengthen labor reform, enforcement, transparency, and consultation to support domestic labor law reform consistent with international standards and create the foundation for good industrial relations.

STEEL

CBP announced today that it is implementing enhanced enforcement measures on steel imports at a high-risk for evasion of AD/CVD duties, and is looking at other areas of high-risk steel imports to broaden these enhanced measures. The enhanced steel enforcement measures include: 1) implementing a targeted increased approach to review steel imports. CBP will be implementing enhanced reviews of Chinese steel imports which will provide a statistically valid measure of risk, increase the reviews of Chinese steel imports, and provide targets for further enforcement; 2) requiring “Live Entry” for certain high risk steel shipments (which means that all entry documents and duties are required to be provided before cargo is released by CBP into U.S. commerce). The live entry requirements have already begun on certain shipments of steel plate from China, and CBP is examining other high-risk steel imports for potential live entry. CBP is also increasing other operational measures on steel imports, including audits of steel importers.

The United States is using existing mechanisms—the Joint Commission on Commerce and Trade (JCCT), the Strategic and Economic Dialogue (S&ED) and the OECD Steel Committee—in an intensified and coordinated effort to work with China and other governments to reduce excess steelmaking capacity and mitigate the damaging effects of excess capacity on the U.S. and global markets. We will reinforce these efforts through senior government official contacts in other fora such as the G-20, G-7, OECD and APEC Ministerial meetings.

Commerce also administers the Steel Import Monitoring and Analysis—or SIMA—program which collects and publishes data about steel mill product imports. Since this program was established in 2005, over 4 million steel licenses have been issued, giving the industry and the public faster access to critical market data. Steel is the only sector in the United States which has such comprehensive early-release import data available to the public. In addition to the information provided by the existing Steel Import Monitoring and Analysis (SIMA) system, Commerce will implement an enhanced steel data analysis program that will assemble and share a variety of complementary statistics relating to global export and import trends, production, consumption, and updates on U.S., and, where available, other countries’ AD/CVD orders, country economic highlights, and other pertinent market information for steel-related trade. This information will provide both public and internal stakeholders with global, current, objective and relevant steel industry facts.

C. Anti-Dumping and Countervailing Duty (AD/CVD) Enforcement And Other CBP Enforcement Efforts

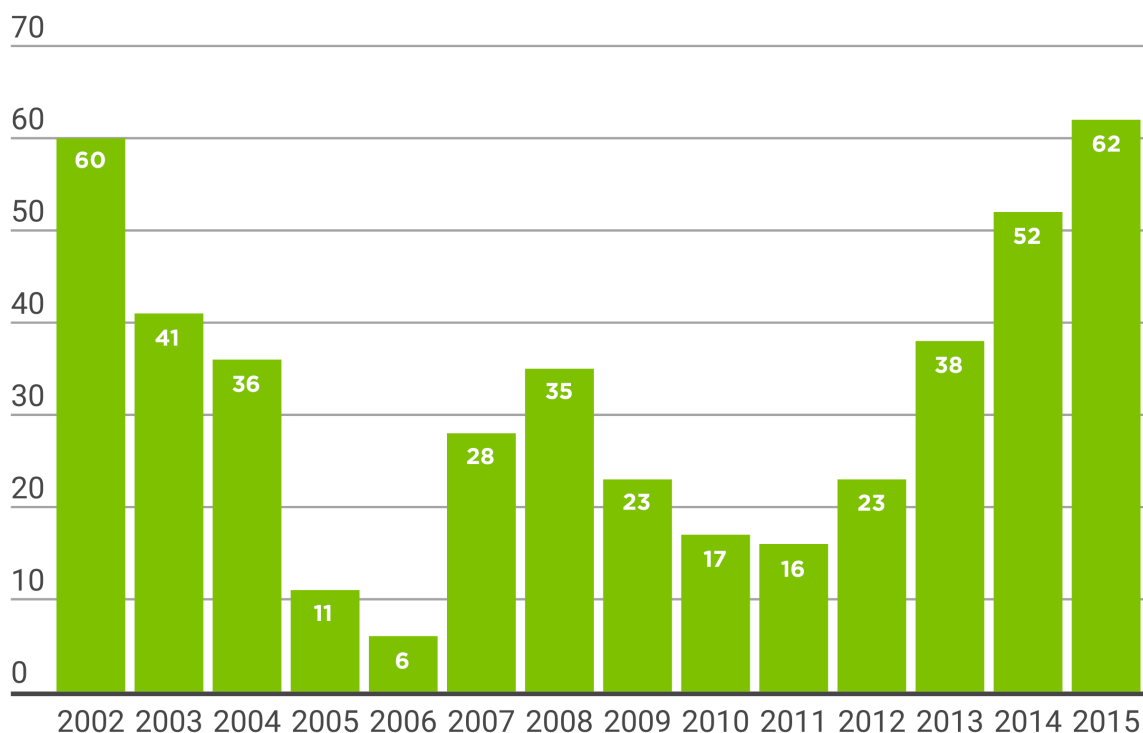
COMMERCE DEPARTMENT PROSECUTION OF AD/CVD CASES

Through the prosecution of anti-dumping and countervailing duty (AD/CVD) cases, the Department of Commerce works to identify and address foreign unfair trade practices that contribute to excess capacity, distort trade, and impact the ability of U.S. businesses and workers to compete on a level playing field. As of February 22, 2016, the United States has 325 antidumping and countervailing duty orders in place, covering over 120 products from 35 countries. Additionally, there are currently 72 ongoing AD/CVD investigations. In Fiscal Year 2015, 62 investigations were initiated on a wide variety of products. This represents the highest number of investigations initiated in 14 years, showing the increasing need for robust trade enforcement. In addition to

investigations, Commerce conducts administrative reviews of antidumping and countervailing duty orders, upon request of interested parties, to determine final liability for those duties for the preceding year and set future year AD/CVD deposit rates.

Between Fiscal Year 2010 and Fiscal Year 2012, Commerce issued on average of 194 AD/CVD decisions each year, comprising both investigations and annual administrative reviews. From Fiscal Year 2013 through Fiscal Year 2015, the average was 252, an increase of 30 percent over the last three years. Based on 2015 trade data, roughly \$10.1 billion, of U.S. imports of goods for consumption were subject to antidumping or countervailing duty orders in effect that year.

Anti-Dumping and Countervailing Duty AD/CVD Investigations Initiated



CBP enforcement of AD/CVD orders and trade agreements at the border

CBP enforces U.S. trade laws and international trade agreements to protect the economy, national security, and the safety of the American people. CBP's trade enforcement efforts identify, detect, and interdict high-risk shipments through advanced technology, integrated enforcement capabilities, and collaborative partnerships with the private sector.

CBP maximizes the use of trade intelligence, working with the private sector to better use targeting capabilities, detect bad actors earlier in the supply chain, respond to real-time risks, and anticipate new threats before they fully emerge. CBP drives innovative solutions to help increase trade volumes and identify trade that can harm the American people or economy. Using automated risk-segmentation, CBP expedites low-risk trade, focusing enforcement resources on identifying high risk shipments that may contain unsafe merchandise. CBP maintains a constant

awareness to identify non-compliant importers and exporters who do not adhere to U.S. import and export laws. CBP leads an international network of customs authorities and law enforcement agencies to defeat the global networks of criminals involved in unlawful international trade practices. Following is a summary of AD/CVD enforcement activity in Fiscal Year 2015:

- In FY 2015, importers entered approximately **\$10.1 billion** in shipments subject to AD/CVD and deposited **\$1.2 billion** in AD/CVD duties.
- CBP, in cooperation with U.S. Immigration and Customs Enforcement (ICE), **seized 36 shipments** for AD/CVD violations with a domestic value of over **\$5.1 million**, and CBP assessed **\$51.9 million** in commercial penalties for AD/CVD violations.
- CBP completed **92 audits** of importers of AD/CVD commodities and identified **\$69.3 million** in AD/CVD discrepancies.
- CBP also seized over **\$922,000** in **steel** products for AD/CVD violations, conducted **7,273** entry summary reviews of **steel** imports for AD/CVD issues, and identified violations with a value of **\$970,169**. CBP assessed **\$45.5 million** in penalties for AD/CVD violations on importers of steel products.
- Currently, CBP is enforcing approximately **325 AD/CVD orders** covering **120 unique commodities**. Of these, **149** AD/CVD orders cover **steel** products.

OTHER CBP ENFORCEMENT EFFORTS

Intellectual Property Rights (IPR) Enforcement

Trade in counterfeit and pirated goods threatens America's innovation economy, the competitiveness of our businesses, the livelihoods of U.S. workers, and, in some cases, national security and the health and safety of consumers. Trade in these illegitimate goods is also associated with smuggling and other criminal activities, and often funds criminal enterprises. CBP enforces Intellectual Property Rights (IPR), most visibly by seizing products that infringe IPR such as trademarks, copyrights, and patents. CBP targets and seizes imports of counterfeit and pirated goods, and enforces exclusion orders on patent-infringing and other IPR violative goods.

Since 2009, IPR enforcement efforts by CBP and ICE have resulted in an overall increase in the number of seizures of IPR infringing shipments. In FY 2014, the total number of IPR seizures was 23,140, a 56 percent increase over FY 2009. If genuine, the IPR infringing goods seized during FY 2014 would have had a total estimated manufacturers' suggested retail price (MSRP) value of **\$1.23 billion**. Goods from China accounted for 63 percent of the total manufacturer's suggested retail value for all IPR seizures.

In FY 2014, interagency collaboration at the ICE-led National Intellectual Property Rights Coordination Center (IPR Center) resulted in **683 arrests**, with **454 indictments** and **461 convictions**.

Trade Agreement and Textile Enforcement

CBP's efforts in the textile area focus on promoting legitimate trade, while also encouraging a strong domestic manufacturing base. As one of the largest manufacturing employers in the United States, the textile sector is a key component of the U.S. economy. The goal of the Textiles Priority Trade Issue is to ensure that textile imports, which generated 40 percent of the duties

collected by CBP in Fiscal Year 2014, fully comply with applicable laws, regulations, quotas, Trade Preference Program requirements and Intellectual Property provisions.

The enforcement of Free Trade Agreements (FTA) and legislative mandates continues to make textiles a politically sensitive industry. The average duty rate for textiles is 16 percent and more than \$21.1 billion of entered textiles and wearing apparel claim preferential tariff treatment, placing textiles and apparel at a high risk for non-compliance.

- CBP currently enforces **14** free trade agreements and conducted **3,400** free trade agreement reviews in Fiscal Year 2015 that identified **\$3 million** in additional revenue owed to the U.S. Government.
- In Fiscal Year 2014, CBP recorded **451 seizures** of textile products valued at **\$3.8 million** for non-IPR violations.
- In fiscal year 2015, CBP completed 53 textile-related audits, with a recommended **\$16.2 million** in additional revenue owed to the U.S. Government.

Other Trade Enforcement Actions

CBP assessed over **\$220 million** in trade penalties, and over the past five years, total trade penalty assessments totaled **\$2 billion**. CBP conducted **297,229** physical trade cargo exams and made **46,321** trade seizures in FY 2015. CBP reviewed over **235,000** unique issues associated with various trade risks resulting in **\$156 million** in recovered revenue.

RECENT EFFORTS TO STEP UP AD/CVD ENFORCEMENT EFFORTS

More enforcement

CBP is using new AD/CVD initiatives to strengthen enforcement capabilities, such as widening the use of single transaction bonds, audit surveys to determine risk in entire industry sectors, statistically measuring AD/CVD threats, proactively preparing to enforce new AD/CVD Orders, and strategic partnerships with the trade. CBP is penalizing noncompliant steel imports, including a \$45.5 million penalty on a steel pipe importer for evading AD/CVD and taking enhanced steel enforcement measures, by targeting steel imports to counter AD/CVD duty evasion. CBP is also implementing a targeted approach to increase reviews of steel imports and requiring that all entry documents and duties be provided on certain shipments before cargo is released by CBP into U.S. commerce, referred to as “live entry.”

The CBP Laboratories and Scientific Services network of laboratories is using state-of-the-art techniques to identify AD/CVD evasion. CBP Labs identified Chinese honey illegally transshipped through Malaysia and India using country of origin analyses to support Operation Honeygate and ongoing enforcement of the antidumping duty order on honey from China. In another instance, the CBP Labs performed analyses on pipe to determine if the merchandise fell within the scope of the antidumping order on large diameter welded pipe from Japan, and confirmed that the pipe was not what it was claimed to be on the import documentation, leading to a multimillion dollar penalty.

Since early 2012, the Department of Commerce’s Enforcement & Compliance (E&C) unit has taken action to assist CBP, ICE, and the Department of Justice by providing critical data and technical expertise in over 20 fraud or evasion investigations. Commerce works with CBP and domestic steel interests to educate CBP border personnel on how to identify and contend with

circumvention and fraud schemes in connection with imported steel products. Commerce continues to mobilize our resources to meet many of the growing challenges of unfair trade.

In FY 2016, Commerce will strengthen its administration of the AD/CVD laws by hiring 38 new staff members to support the AD/CVD workload. Commerce will also hire five new staff members to support trade agreements compliance work.

BETTER TOOLS PROVIDED BY THE AMERICAN TRADE ENFORCEMENT EFFECTIVENESS ACT

With passage of the American Trade Enforcement Effectiveness Act of 2015 last summer, Commerce received some important tools to support its administration of the AD/CVD laws. These tools have already begun to help Commerce ensure the submission of all information needed to determine the extent of dumping and subsidization; offer all interested parties a fuller opportunity to provide relevant input into Commerce's analysis; and thereby more accurately capture dumping and subsidization in its calculations.

For example, Commerce now requires parties to provide cost of production information in every anti-dumping proceeding that involved a *market economy* so that we may automatically investigate whether a foreign producer has made sales below its cost of production.

Similarly, the new law permits Commerce, when calculating antidumping duties in cases involving *non-market economy* (NME)^[1] countries, to disregard prices or certain costs in other countries that may be dumped or subsidized. New provisions in the law support Commerce's existing practice toward non-cooperating companies and governments by allowing Commerce reasonable discretion to employ "adverse facts available" in reaching its determinations involving such parties. This helps bolster the Department's position under judicial review. The new law also overturns judicial interpretations that required that such facts reflect the "commercial reality" of the non-cooperating entity.

Some of the other changes, such as those related to a "particular market situation," have yet to be introduced in an ongoing proceeding, but the tools provided for in the new law will provide Commerce the flexibility to calculate an antidumping duty that is not based on distorted pricing or costs. In addition to the new tools that we gained in the American Trade Enforcement Effectiveness Act enacted this summer, Commerce continues to consider ways it might further strengthen enforcement of the AD/CVD laws, including through regulatory revision and changes to administrative practice. For example, Commerce has tightened its deadlines in AD/CVD proceedings to provide all parties a fair and adequate opportunity to review and comment upon the information under consideration for determining dumping and subsidization. This will complement the new provisions of the American Trade Enforcement Effectiveness Act that address the application of adverse facts that are otherwise available.

[1] A country's status as an NME applies only to U.S. antidumping proceedings, and if a country is determined to be an NME, Commerce can use a surrogate country methodology to calculate a "normal value" in antidumping investigations and administrative reviews involving that country. Market economy country status is a default status, unless and until DOC designates it a non-market economy country. Once a country has been designated an NME, the Commerce Department can review a country's that status as a non-market economy if the government requests (or formally supports a respondent's request for) "market economy status" in the context of a specific AD/CVD case and if the relevant statutory criteria are satisfied. In 2006, in response to China's first-ever request for a review of its NME status, Commerce found that, despite recent and ongoing reform efforts, the significant extent of continued government intervention in certain important sectors of the economy warranted maintaining China's designation as an NME country. Other countries that have been or are currently designated as NMEs include China, Vietnam, Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan, Turkmenistan and Uzbekistan.

Stronger Cooperation

The Department of Commerce continues to strengthen its partnership with CBP to improve the effectiveness of AD/CVD measures at the border, including by sharing crucial information to help them detect and stop illegal evasion of AD/CVD measures by foreign producers and their importers. This cooperation is especially crucial for combating duty evasion for steel products. Recently, Commerce staff worked with CBP on several enforcement initiatives, including recommendations that CBP port officials go to “live entry” for steel products that are at high risk of AD/CVD duty evasion, which will require the submission of all documentation at the time of entry, and that CBP seek to provide improved testing equipment and other resources for its lab facility in Houston as well as other U.S. ports with high volumes of steel imports. Last year, Commerce renewed its partnership with the American Iron and Steel Institute, other steel industry associations, and CBP to present seminars to customs brokers, CBP import specialists and other port personnel, educating them in steel classification, the product coverage of the multiple AD/CVD orders on steel products, and how to spot and stop evasion of those orders.

D. General Trade Agreements Compliance

Enforcement encompasses much more than formal dispute settlement. In many cases, affected stakeholders prefer that we work bilaterally to successfully resolve disputes through dialogue rather than litigation, because of the time involved in dispute settlement and out of concern that litigation could lead to retaliation and an even more challenging business environment. While it is sometimes necessary to demand our rights via dispute settlement actions often the best course of action to protect American workers and businesses is through government-to-government engagement as a faster and more practical first step to try to resolve problems prior to engaging in lengthy litigation.

Over the last 7 years, the Obama Administration has resolved hundreds of trade agreement concerns, short of launching formal enforcement procedures, through engagement, including in the context of threatened litigation. For example, USTR has addressed dozens of barriers blocking U.S. agriculture exports, including securing access for beef exports to the Philippines and Indonesia, poultry exports to Colombia and Japan, and pork exports to Chile, New Zealand, and Malaysia. We have also resolved numerous intellectual property issues affecting U.S. businesses and workers, including engaging bilaterally to secure Canadian passage of legislation to fight counterfeiting and privacy and using our ‘Special 301’ process to ensure important IP reforms in the Philippines, Canada, Colombia, Israel, Malaysia, and others.

Since the beginning of the Administration, Commerce has contributed to successfully resolving nearly 200 industry complaints about foreign government compliance with trade agreements. With respect to compliance with international commitments regarding trade remedies (AD/CVD and safeguards), since 2009, Commerce assisted U.S. exporters in defending their interests in over 215 foreign trade remedy investigations, and contributed to the termination of nearly 100 such measures, affecting over \$7 billion in U.S. exports. Commerce staff assisted U.S. exporters in the more than 20 foreign AD/CVD and safeguard actions that were terminated in FY 2015, affecting more than \$100 million in U.S. exports.

In addition, we have worked bilaterally with China through the Joint Commission on Commerce and Trade (JCCT) to secure important intellectual property-related commitments. In terms of labor issues, we have been working with Honduras to address a number of worker rights issues.

Successful resolution in compliance cases like these means we not only fix the immediate problem harming our businesses and workers, but by getting foreign governments to honor their commitments, we hopefully prevent it from happening again in the future.

EXAMPLES OF HOW INTERNATIONAL TRADE COMPLIANCE WORK HAS HELPED

Following are some examples of how international trade compliance has helped American businesses and American workers:

Got Japan to Take an American Information and Communication Tech Firm's Concerns Seriously and Treat American Firms Fairly

We ensured that Japan took into account a California-based information and communication technology firm's concerns, first reported in 2012, regarding Japanese regulations pertaining computer network security – Japan is under a WTO Technical Barriers to Trade obligation to accept foreign industry comments and cannot discriminate against foreign suppliers to an the information security services market worth \$4 billion a year. The International Trade Administration raised the trade concerns with Japan's Ministry of Economy, Trade and Industry and received assurances from the Ministry that the U.S. company's comments would be taken into account. The company reported in 2013, that they were satisfied with the process and felt the standard would not discriminate against their services.

Stood Up for an American Food and Beverage Company Operating in Panama

We protected a Massachusetts-based food and beverage company's \$6 million investment at Panama's Tocumen Airport, after it secured a government contract to supply the airport's food court concessions. The Panamanian government stalled on ratifying the contract and allowed local companies to use the space, which was at odds with the requirements of the U.S.-Panama Bilateral Investment Treaty. After high-level intervention by the U.S. Ambassador to Panama, the Panamanian Government signed the contract in 2011.

Pushed Back on Inappropriate Hurdles to American Semiconductors in Europe

We ensured that spare parts for large machines were not misclassified by the European Union's Directive on the Restrictions of Hazardous Substances (RoHS), which could have cost a California-based semiconductor equipment manufacturer millions of dollars in unnecessary RoHS compliance. After raising the barrier in the WTO Technical Barriers to Trade Committee and the RoHS policy industry conference in the EU, the United States successfully convinced the EU to issue new guidance in 2013, stating the products were outside the scope of the RoHS.

Convinced China to honor the WTO Technical Barriers to Trade Agreement

As a result of our compliance efforts, China began allowing certification of U.S. factories to be conducted concurrently with the finalization of product type approvals, eliminating unnecessary delays for our manufactured goods exported to the Chinese market.

Secured Dismissals of Six Actions Affecting \$45 Million of American Exports to India and Turkey Due to Lack of Evidence

Commerce's ongoing engagement with India and Turkey over flaws in their conduct of antidumping and safeguard investigations contributed to those countries dismissing six such actions in FY 2015, all for lacking evidence to support the actions. These trade remedy actions affected over

\$45 million worth of U.S. exports of chemical, steel, aluminum and paper products.

Convinced Guatemala to Live Up to Government Procurement Commitments

We successfully convinced Guatemala to live up to its government procurement obligations in the Central America Free Trade Agreement (CAFTA), by allowing a U.S. energy company to compete fairly for a contract worth \$12 million-per-year providing fuel for aircraft at Guatemala's central airport. Because the issue, reported to the U.S. Embassy in January 2015, dealt with the CAFTA Agreement, the USG worked bilaterally with the assistance of the U.S. Ambassador to resolve the government procurement dispute in the summer of 2015. Additional efforts to ensure that disciplines on government procurement were respected resulted in a U.S.-based healthcare company securing a \$3 million portion of a contract to provide hemodialysis services in country.

CONCLUSION

The Obama Administration has pursued the most significant upgrade of trade enforcement tools and capabilities in modern U.S. trade policy, including through the major upgrade to enforcement tools in the customs legislation the President is signing into law today. President Obama will continue to pursue trade enforcement efforts to level the playing field for American workers and businesses by holding our trading partners accountable. ■

Appendix A

Trade Enforcement 101: How We Enforce Our Trade Obligations

The Obama Administration has aggressively monitored and enforced the trade rights of American workers and businesses around the world. While the Administration first attempts to resolve trade barriers before bringing a formal enforcement action, when trading partners refuse to live up to their obligations, the Administration has not hesitated to act. At every stage, we marshal every resource, trade agency, and trade enforcement tool at our disposal to hold trading partners accountable to open and fair competition. Each trade agency and trade enforcement tool plays an important role in coordinating and executing what has constituted a very strong trade enforcement record.

The United States Trade Representative (USTR) coordinates the Administration’s active monitoring of foreign government compliance with trade agreements and pursues enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws when necessary. This includes both state-to-state dispute settlement through procedures established in bilateral and regional trade agreements, as well as bringing enforcement cases to the WTO. Vigorous investigation efforts by agencies on trade issues—including at the Departments of Agriculture, Commerce, State, and Labor—help ensure that our trade agreements yield the maximum benefits in terms of ensuring market access for Americans, advancing the rule of law internationally, and creating a fair, open, and predictable trading environment.

In addition to WTO cases, a critical trade enforcement tool is the ability to levy antidumping and countervailing duties (AD/CVD) on imports of unfairly traded goods that cause or threaten injury to a U.S. industry. Dumping occurs when foreign manufacturers sell goods in the United States at less than fair value, causing injury to the American industry and workers. Anti-dumping duties are calculated and imposed to bridge the gap back to a fair market value, so that foreign companies are not unfairly undercutting American workers and businesses. CVD cases are established when a foreign government subsidizes exports, such as through tax breaks to manufacturers that export goods to the United States, that provides foreign manufacturers an unfair advantage when selling their goods into the United States. Countervailing duties are calculated and imposed to offset the value of the subsidy. To launch either an AD or CVD investigation, U.S. producers or organized workers, acting on behalf of a U.S. industry, file petitions with both the International Trade Administration of the Department of Commerce and the United States International Trade Commission (ITC), a quasi-judicial federal agency. The Department of Commerce (DOC) does an investigation if it finds threshold statutory requirements are satisfied. If DOC

finds that imports were dumped or there are countervailable subsidies, and the ITC finds that U.S. companies are materially injured or threatened with material injury, DOC will issue an order that imposes a duty to remedy the unfair competition. The U.S. Customs and Border Protection collects AD/CVD duties and seeks to detect and prevent evasion of AD/CVD orders. If, for example, a company is selling widgets for \$10 apiece in the United States but the cost of the widgets in the home market of the importer or in a third country is determined to be \$20, the duty would be \$10 per widget to bridge that gap.

The AD and CVD laws are administered by the DOC International Trade Administration's Enforcement & Compliance (E&C) unit, which performs a range of activities to help level the playing field for U.S. firms and workers as they compete around the world. E&C accomplishes this mission by, among other things (1) vigorously investigating allegations that foreign products are being unfairly subsidized or dumped in the United States, (2) monitoring and pursuing foreign government compliance with trade agreements to which the United States is a party, and (3) coordinating the representation of U.S. commercial interests in designated bilateral, multilateral, and regional trade and investment negotiations and overseeing the formulation and implementation of policies related to a range of trade agreement disciplines.

Beyond ITA, the Department of Commerce's other bureaus bring one of the most diverse information bases across the government to bear on these challenges. For example, the National Institute of Standards and Technology (NIST) and National Oceanic and Atmospheric Administration (NOAA) bring scientific expertise to enforcement actions relating to topics such as cybersecurity and fisheries conservation, respectively. And the Patent and Trademark Office's (PTO) regulatory responsibilities position it well to lend its expertise to protect American intellectual property from theft and misuse abroad. These bureaus work with ITA to resolve trade issues. They also help our trading partners build their capabilities to comply with their trade obligations and beef up their domestic enforcement procedures through capacity building, preventing violations from happening in the first place.

U.S. Customs and Border Protection (CBP), part of the Department of Homeland Security, protects national economic security through effective trade enforcement operations. CBP's trade enforcement efforts seek to better identify, detect, and interdict high-risk shipments through collaborative partnerships with the private sector, advanced technology, and integrated enforcement capabilities. CBP uses all of its authorities to combat trade fraud by detecting high-risk activity, deterring non-compliance, and disrupting fraudulent behavior. CBP enforces trade regulations in such key areas as AD/CVD, free trade agreements, textiles, and intellectual property rights to promote fair and competitive markets for Made-in-America exports. CBP collaborates with its partner agencies to execute a range of enforcement actions up to and including punishing criminal violators to the fullest extent of the law to ensure a fair and competitive trade environment.

The Bureau of International Labor Affairs (ILAB) leads the U.S. Department of Labor's efforts to ensure that workers around the world are treated fairly and are able to share in the benefits of the global economy. ILAB works to improve global working conditions, raise living standards, protect workers' ability to exercise their rights, and address the workplace exploitation of children and other vulnerable populations.

The State Department's Trade Policy and Programs advances U.S. trade policy objectives by opening new export opportunities for American businesses, farmers, ranchers and workers through global, regional and bilateral trade initiatives—including free trade agreements (FTAs) and the World Trade Organization (WTO).

To coordinate trade enforcement efforts across the government, President Obama created the Interagency Trade Enforcement Center (ITEC) by Executive Order in February 2012. This Center has brought together expertise from across the Federal Government into one organization

to investigate foreign trade barriers and unfair foreign trade practices and has provided crucial investigative and analytical resources for WTO disputes brought against China and other trading partners. ITEC has helped to ensure that America's trading partners abide by their obligations, including by maintaining open markets on a non-discriminatory basis and by following rules-based procedures in a transparent way. The Customs legislation the President is signing today permanently establishes the successor organization to ITEC—the Interagency Center on Trade Implementation, Monitoring, and Enforcement—at USTR, to continue providing crucial investigative and analytical resources to build and support trade disputes. ■

Appendix B

Stakeholder Statements on the Administration's Trade Enforcement Work

U.S. Challenge to China's Hidden and Discriminatory Tax Exemptions for Certain Chinese-Produced Aircraft: December 2015

"Today the U.S. Government took a strong stand with the WTO to protect U.S. jobs by exposing the unfair and concealed advantage of Chinese aircraft companies over sales of American aircraft and aircraft parts in China....This policy is aimed squarely at the U.S. aviation industry which has provided \$580 million in small aircraft to China and over \$5 billion in sales of aviation components in the past three years. We commend the Obama Administration for taking this action and urge the Chinese government to institute a consistent policy immediately."

United Auto Workers

"China has targeted industry after industry with unfair and often secret subsidies. America's aerospace industry, one that widely supports manufacturing jobs all across the country, is yet another example. Tens of thousands of USW members working in the aluminum, steel, glass and tire sectors produce and supply materials and parts used in the domestic aerospace industry. The USTR's actions are a critical part of a strategy to maintain U.S. leadership in this vital sector."

United Steelworkers (USW) International President Leo W. Gerard

"China utilizes every tool available to establish a strong aerospace industry, including other market distorting mechanisms like demanding that U.S. companies transfer production and technology in return for sales...The action today is a step in the right direction to leveling the playing field among the world's aerospace companies and their workers. We hope this paves the way for more aerospace exports produced by U.S. workers."

International Association of Machinists and Aerospace Workers (IAM) President Tom Buffenbarger

U.S. Trade Enforcement Victory Against Chinese Duties on Steel: July 2015

"We applaud the ITC for their decision in issuing an affirmative final determination for tariffs on Chinese tires being illegally dumped and subsidized into the U.S. market. The outcome in the USW's pursuit of this case will not only help protect USW members and their families but also helps protect the jobs and futures of the tens of thousands of workers employed within the U.S. tire industry."

United Steelworkers President Leo Gerard

U.S. Request for WTO Panel to Examine Indonesia's Import Restrictions on U.S. Agriculture: March 2015

"Indonesia's unrealistic policy of self-sufficiency is known the world over. It's the fourth largest country in the world by population, yet its arable land is only the size of Kansas. As Indonesia continues to make impressive economic progress and dietary standards rise, trading isn't a luxury, it's a necessity... From a Council perspective, the immediate benefit of a successful challenge to Indonesia's trade-inhibiting practices would probably be an increase in animal products. We, of course, support the export of corn in all forms. Longer term, the rapid growth in Southeast Asia, India and China puts Indonesia at the center of the world's economic engine for the next generation. Indonesia is poised for opportunity, if it can learn to embrace free trade."

U.S. Grains Council Regional Director of South and Southeast Asia Kevin Roepke

"The North American Meat Institute appreciates the administration's efforts to challenge the restrictive trade barriers put in place by the Indonesian government. As USTR noted, the barriers have had a significant impact on trade with Indonesia, limiting trade of meat and poultry to levels far below other countries in the region. We agree that it is time for the World Trade Organization to level the playing field and ensure Indonesia is meeting its trade commitments."

North American Meat Institute Senior Vice President of International Affairs William Westman

U.S. Challenge to Extensive Chinese Export Subsidy Program: February 2015

"Last week's trade statistics for 2014 showed a historic deficit with China as it continues to engage in predatory and protectionist trade practices. These efforts fuel their growth

by flooding the United States with unfairly priced products, while limiting our exports to their market. Today's action by the USTR is an important step in the effort to combat China's export subsidies...The Obama Administration has worked hard to get China to play by the rules. The Chinese catalog of barriers is voluminous and taking action is a slow, grueling process. But, this broad-based effort will help dismantle a web of mechanisms designed to game the system and help establish a more level playing field for hard-working Americans."

United Steel Workers President Leo W. Gerard

"I applaud the Obama administration's enforcement efforts to hold our trading partners, namely China, accountable. This is an important action, but is only the tip of the iceberg among China's predatory trade practices. This administration needs to more aggressively confront China's currency manipulation, which represents a massive export subsidy that undermines American manufacturers and workers."

Alliance for American Manufacturing President Scott Paul

"It has been NCTO's long standing position that China's rise in the global textile and apparel market has been substantially aided by illegal and unfair trading practices. These illegal practices distort the global market place and put the entire U.S. manufacturing base at a considerable disadvantage. We applaud the Obama Administration for today's decision to hold our international trading competitors to their WTO obligations."

NCTO President Augustine Tantillo

"The U.S. shrimp industry applauds the USTR's aggressive efforts to address export subsidies in China. The leadership of our Congressional allies, particularly Louisiana's Charles Boustany, in tackling tough trade issues, as well as U.S. Trade Representative Michael Froman's commitment to fair trade, has been essential in safeguarding the livelihoods of thousands of working families in our industry."

Southern Shrimp Alliance Executive Director John Williams

U.S. Victory in Enforcement Dispute Against Argentina's Import Licensing Restrictions: January 2015

"Given the global headwinds that U.S. manufacturers face, this ruling comes at a particularly important time. In 2013, the United States exported nearly \$10 billion in manufactured goods to Argentina. The NAM has worked to eliminate these restrictions since they were imposed and congratulates Ambassador Froman and USTR for their successful efforts. Now it is important for Argentina to move quickly to eliminate these provi-

sions and engage in a more open trade relationship that will advance economic growth in both our economies.”

National Association of Manufacturers Vice President Linda Dempsey

U.S. Enforcement Victory for American Farmers: October 2014

“India’s ban was thinly veiled protectionism. This ruling should send a signal to India and other countries that have placed similar bans on U.S. poultry that they are inconsistent with WTO rules and with guidelines established by the World Organization for Animal Health. Our industry believes that free and fair trade – particularly with food – should never be used as a political bargaining chip. Indian consumers deserve access to affordable and safe protein, which the U.S. has the ability to provide. We thank former USTR Ron Kirk for initiating the complaint against India, and (current) Ambassador Michael Froman for continuing to pursue the case for a favorable outcome.”

USA Poultry & Egg Council President James Sumner and National Chicken Council President Michael Brown

“Our industry is indeed indebted to the [Office of the U.S. Trade Representative] for pursuing this important case against India. India’s ban on U.S. poultry has been without merit.”

Mountaire Farms Director Mike Little

U.S. Labor Enforcement Case Against Guatemala: September 2014

“We welcome today’s historic decision by the U.S. government to resume the arbitration process with Guatemala, to ensure that the government of Guatemala will live up to the commitments made under CAFTA to enforce workers’ basic rights and Guatemalan labor laws....We applaud the actions of our government today.”

AFL-CIO President Richard Trumka

“Today, for the first time ever, the U.S. government announced that it will begin the formal consultations that are used to resolve trade disputes in the area of labor rights enforcement....The AFL-CIO welcomes today’s announcement by the U.S. government to resume the arbitration process with Guatemala, to ensure that the government of Guatemala will live up to the very basic commitments it made to effectively enforce its own labor laws.”

AFL-CIO Trade & Globalization Policy Specialist Celeste Drake

“The announcement by the USTR is the proverbial good news, bad news story. The good news is that they are moving a case forward. The bad news is that, for six years, Guatemala has refused to alter its practices to ensure that their people receive internationally recognized workers rights...Workers rights are the fundamental building block for any just and prosperous society. Income inequality is rising globally because workers do not share in the fruits of their labor.”

United Steelworkers President Leo W. Gerard

U.S. Enforcement Victory Against China On Autos: May 2014

“When America seeks to level the playing field against China by having them live up to the rules it agreed to when joining the WTO, China too often retaliates. Today, China was found to have broken the rules again. The Administration is right to applaud this victory, while continuing to aggressively enforce our trade laws to make sure American workers get a fair shake.”

United Steelworkers International President Leo W. Gerard

U.S. Victory in Rare Earths Dispute with China: April 2014

“The U.S. Trade Representative (USTR) has been aggressive and determined to confront China about its export limits on rare earth minerals and other materials. Those products are critical ingredients in a broad range of items across the manufacturing sector where worker’s jobs depend on fair trade practices and a steady market supply. China’s policies have had a direct impact on U.S. production and employment.”

United Steelworkers President Leo W. Gerard

“This decisive ruling by the WTO confirms that China cannot impose export quotas, export taxes, and other restrictions on these raw materials. We urge China to promptly comply with the WTO’s decision and remove these trade-distortive export restrictions.”

Wiley Rein Chair of International Trade Practice Alan. H. Price

“NEMA supports non-discriminatory national policies toward trade in raw materials and minerals, and we believe the WTO panel’s decision is consistent with that principle. NEMA understands China’s national interest in protection of its environment, but

trade measures such as export quotas and export tariffs do not appear to be particularly suited to protecting the environment, while such measures do tend to support economic protectionism. We commend the efforts of the U. S. Trade Representative's Office, the Government of Japan, and the European Union in bringing this dispute to the WTO and successfully resolving it under the auspices of the WTO's dispute resolution process."

National Electrical Manufacturers Association (NEMA) President Evan R. Gaddis

"This WTO action is a step in the right direction, and we're pleased USTR took the initiative in 2012 to launch a rare earth minerals case. China's export restraints on rare earth minerals have contributed to the loss of American production and jobs, particularly in advanced technology products. These restrictions have also raised important national security concerns about a reliance on foreign suppliers for our military supply chain. These metals are used in crucial missile guidance systems and aircraft components, and it is troubling that we are almost entirely reliant on the Chinese government for access to them. The administration must aggressively enforce existing trade laws to ensure China complies with [the] ruling while we work to expand our domestic production and processing of rare earth materials."

Alliance for American Manufacturing (AAM) President Scott Paul

"This decision illustrates that China cannot continue to manipulate the global trading system by promoting its own industry to the detriment of U.S. and other global manufacturers. These metals include critical raw materials for steelmaking, and the export restrictions clearly favor Chinese producers already dealing with a massive overcapacity in steelmaking. This is yet more proof that China deliberately evades its obligations as a WTO member. The Chinese government knew in 2001 when it joined the WTO that it could not impose export quotas on these elements, and it did so anyway. We are pleased to see the U.S. government working with our allies to address China's unfair trade practices and hope that the vigorous enforcement of the global trade rules continues."

American Iron and Steel Institute (AISI) President Thomas J. Gibson