

**MAJOR AUTHORITIES AND FUNCTIONS  
OF THE  
INTERNATIONAL TRADE ADMINISTRATION  
DEPARTMENT OF COMMERCE**

Introduction

The major authorities and functions of the Secretary of Commerce exercised through the International Trade Administration (“ITA”) fall into five general categories: (1) trade promotion, international competitiveness, and commercial representation abroad; (2) trade policy development and negotiation and implementation of trade agreements; (3) administration of trade remedy laws and imposition of trade sanctions; (4) negotiation of other international agreements; and (5) investment promotion and other investment matters. Certain functions within these categories -- investment monitoring and statistical analysis, for example -- are exercised in part by other Commerce entities, usually in consultation with ITA.

The role of the Secretary in each category may be exclusive (e.g., determining margins in antidumping and countervailing duty matters), primary (e.g., trade promotion), or supporting (e.g., trade policy development).

1. TRADE PROMOTION, INTERNATIONAL COMPETITIVENESS AND COMMERCIAL REPRESENTATION ABROAD

The primary authorities for these functions are:

A. “Organic” Authority

Commerce's “organic” legislation, the Act of February 14, 1903, provides the Secretary with authority to “foster, promote, and develop the foreign and domestic commerce...of the United States.”<sup>1</sup> 15 U.S.C. § 1512. The Secretary relied exclusively upon this authority for trade-related functions until Reorganization Plan No. 3 became effective in 1980.

B. Reorganization Plan No. 3 and Subsequent Reorganizations

Reorganization Plan No. 3 was implemented by President Carter through Executive Order 12188, as amended, signed on January 2, 1980.<sup>2</sup> See 19 U.S.C. § 2171 note. Reorganization Plan No. 3:

---

<sup>1</sup> The Department of Commerce and Labor was established by the Act of February 14, 1903 § 552 (32 Stat. 825). In 1913, Congress separated the Departments, establishing a separate Department of Commerce by the Act of March 4, 1913, § 141 (37 Stat. 736).

<sup>2</sup> Exec. Order No. 12188, 45 Fed. Reg. 989 (January 2, 1980).

- (1) provided the Secretary with “general operational responsibility for major nonagricultural international trade functions of the United States government, including export development, commercial representation abroad, the administration of the antidumping and countervailing duty laws, export controls, trade adjustment assistance to firms and communities, research and analysis, and monitoring compliance with international trade agreements to which the United States is a party;”
- (2) established the position of Under Secretary for International Trade and authorized two additional assistant secretaries;
- (3) designated the Secretary as an ex officio member of the Board of Directors of the Export-Import Bank (the Under Secretary for International Trade has been delegated this function, and the Deputy Assistant Secretary for Services provides support for the Commerce representative); and
- (4) transferred to the Secretary “all trade promotion and commercial functions of the Secretary of State...performed in full-time overseas trade promotion and commercial positions;” or “in such countries as the President may from time to time prescribe.”
- (5) Transferred to the Secretary responsibility for administering the countervailing duty and antidumping statutes.

Id.

The President's message accompanying Reorganization Plan No. 3 declared that “[f]ostering the international competitiveness of American industry will become the principal mission of the Department of Commerce.” Id.

The transfer of the State Department's trade promotion and commercial function to Commerce was done in conjunction with the establishment, by a 1980 Departmental Order, of the International Trade Administration and, within ITA, of the United States and Foreign Commercial Service (“US&FCS”).<sup>3</sup> See Dept. Organization Order No. 10-3, 45 Fed. Reg. 6141 (January 25, 1980).

The 1980 Departmental Order also designated the two new assistant secretaries created by Reorganization Plan No. 3 as the Assistant Secretary for International Economic Policy and the Assistant Secretary for Trade Development. Id. The position of Assistant Secretary of Commerce established by P. L. 80-191 was designated as the Assistant Secretary for Trade Administration by the same 1980 Departmental Order. Id.; 15 U.S.C. § 1505. Reorganization Plan No. 3 was amended by P. L. 97-377 (December 21, 1982) to codify the position of Director General of the US&FCS. 19 U.S.C. § 2171 note.

---

<sup>3</sup> Reorganization Plan No. 3 also authorized the Secretary to utilize authorities of the Foreign Service Act to administer the new Service. 19 U.S.C. § 2171 note. Foreign Commercial Service Officers are thus subject to personnel provisions of the Foreign Service Act. 15 U.S.C. § 4721(a)(4). While at post, Foreign Commercial Officers are responsible to the Chief of Mission, but report to the Secretary.

The Conference Report for the Consolidated Appropriations Act of 2004 provided for a reorganization of ITA and changes in ITA's functions. H.R. Rep. No. 108-401 (2003), incorporating by reference language in the related report of the House Committee on Appropriations ("Committee Report"), at H.R. Rep. No. 108-221 (2003). The Committee Report identified ITA's mission as creating economic opportunity for U.S. workers and firms by promoting international trade; opening foreign markets; ensuring compliance with trade law and agreements; and supporting U.S. commercial interests at both home and abroad. H.R. Rep. No. 108-221. The Committee Report provided for:

- consolidating all trade promotion efforts under the Assistant Secretary for Trade Promotion and Director General of the US&FCS in order to focus efforts on adapting domestic industry to the global market;
- replacing the Assistant Secretary for Trade Development with an Assistant Secretary for Manufacturing and Services and enhancing this unit's analytical resources; and
- reorganizing Import Administration, including by enhancing its resources dedicated to China, enforcement, and stamping out the root causes of unfair trade.

Id.

The Committee Report stated that the purpose of the reorganization was to clarify the mission of each Assistant Secretary within ITA, realign resources to strengthen new priorities in manufacturing and services, create a better analytical base for U.S. trade policies and negotiations, and address the root causes of unfair trade practices. The Committee Report noted that ITA should be an advocate for the interests of manufacturing sector and must develop policies to promote the sector, and in particular cited the role of the Assistant Secretary for Manufacturing and Services in assessing the sector and developing strategies to help the sector face competitiveness challenges. This reorganization was implemented in April 2004.

The September 2013 revised Departmental Orders consolidated ITA's four units into three units: Global Markets, Industry and Analysis, and Enforcement and Compliance. The Global Markets unit combines ITA's country and regional experts, overseas and domestic field staff (including the US&FCS), and specific trade promotion programs. The Industry and Analysis unit brings together ITA's industry, trade, and economic experts to advance the competitiveness of U.S. industries through the development and execution of international trade and investment policies and promotion strategies. The Enforcement and Compliance unit enhances ITA's responsibilities to enforce U.S. trade laws and ensure compliance by foreign countries with international trade agreements negotiated by the United States, including both enforcement of the U.S. unfair trade laws and leading ITA's trade agreements compliance work.

#### C. The Export Administration Amendments Act of 1985

Title II of the Export Administration Amendments Act of 1985 ("Export Administration Act") authorized for the first time Congressional appropriations for Commerce's export promotion programs. 15 U.S.C. § 4051. Prior to 1985, these programs were not separately authorized;

funding was subject only to the general Commerce appropriation. The Export Administration Act defined “export promotion program” as “any activity of the Department of Commerce designed to stimulate or assist United States businesses in marketing their goods and services abroad competitively” with foreign businesses and expressly included all the programs of US&FCS. The most recent reauthorization was for FY 1995 and 1996. See 15 U.S.C. § 4052.

Congressional oversight of ITA is provided primarily by the House Foreign Affairs, Ways and Means, and Energy and Commerce Committees, and by the Senate Finance, Banking, and Commerce Committees.

#### D. The Omnibus Trade and Competitiveness Act of 1988

Section 2301 of the Omnibus Trade and Competitiveness Act of 1988 provided for the establishment by the Secretary of a United States and Foreign Commercial Service within ITA, providing an express statutory basis for this organization.<sup>4</sup> 15 U.S.C. § 4721. Section 2301 states: “[t]he Commercial Service shall place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad...”. 15 U.S.C. § 4721(b). Among other authorities, US&FCS may assist “the coordination of the efforts of State and local agencies and private organizations which seek to promote United States business interests abroad...”. 15 U.S.C. § 4721(b)(7). Section 2301 explicitly authorizes both domestic and foreign offices. 15 U.S.C. § 4721(c). Section 2301 defines “United States exporter” and provides that the goods or services sought to be exported must be “produced in the United States.” 15 U.S.C. § 4721(j)(3).

Section 2303 authorizes the Secretary to establish in ITA the Market Development Cooperator Program (“MDCP”), under which Commerce enters into cost-sharing contracts with nonprofit industry organizations and States “to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.” 15 U.S.C. § 4723(a). Under the MDCP, a cooperator may detail individuals to US&FCS for one- to two-year periods. 15 U.S.C. § 4723(c)(1)(A).

Under Section 2304, US&FCS provides assistance for domestic trade shows that bring together U.S. exporters and foreign buyers. 15 U.S.C. § 4724. US&FCS is to make special efforts to facilitate the participation by small businesses and companies new to export in these trade shows. 15 U.S.C. § 4724(c).

#### E. The Export Enhancement Act of 1992

---

<sup>4</sup> As noted above, the position of Director General of the US&FCS was codified in 1982 by P.L. 97-377. See 19 U.S.C. ' 2171 note (Reorganization Plan No. 3).

## 1. The Trade Promotion Coordinating Committee

Section 201 of the Export Enhancement Act of 1992 (“Export Enhancement Act”) established the interagency Trade Promotion Coordinating Committee (“TPCC”), which is chaired by the Secretary of Commerce.<sup>5</sup> 15 U.S.C. § 4727. The purposes of the TPCC set forth in section 201 are to provide a unifying framework to coordinate the export promotion and export financing activities of the United States Government and to develop a government-wide strategic plan to carry out Federal export promotion and export financing programs. 15 U.S.C. § 4727(a).

Both section 201 and Executive Order 12870, as amended, require the annual submission to Congress of a “Strategic Plan” for federal trade promotion efforts. 15 U.S.C. § 4727(c); Exec. Order No. 12870, 58 Fed. Reg. 51753 (Sept. 30, 1993). The annual *National Export Strategy* is prepared by the TPCC pursuant to this requirement.

## 2. One-Stop Shops for Trade Promotion and Export Financing

Sections 202 and 203 of the Export Enhancement Act amended the Omnibus Trade and Competitiveness Act of 1988 to authorize the US&FCS to use its offices as “one-stop shops for United States exporters” to obtain information on “all export promotion and export finance activities of the Federal Government,” and specifically to provide information relating to Federal export financing and insurance programs. 15 U.S.C. § 4721(b)(8)-(9).

## 3. Environmental Trade Promotion

Section 204 of the Export Enhancement Act required the establishment, within the TPCC, of the Environmental Trade Working Group, to address all issues with respect to the export promotion and export financing of U.S. environmental technologies, goods, and services and to develop a strategy for expanding U.S. exports of environmental technologies, goods, and services. 15 U.S.C. § 4728(b)(1). The Working Group is chaired by Commerce. 15 U.S.C. § 4728(b)(3). The Jobs Through Trade Expansion Act of 1994 provided for the establishment of an Environmental Technologies Trade Advisory Committee, and added certain other environmental trade provisions. 15 U.S.C. § 4728(c).

## F. Jobs Through Exports Act of 1992

Section 401 of the Jobs Through Exports Act of 1992 authorizes the establishment of United States Commercial Centers in Asia, Latin America, and Africa “to provide additional resources for the promotion of exports.” 15 U.S.C. § 4723a. Services provided by the Commercial

---

<sup>5</sup> The TPCC was originally created by Presidential Memorandum dated May 23, 1990. TPCC membership, as established by section 201 and augmented by Executive Order 12870, as amended, is comprised of: Department of Commerce (Chair), Departments of Agriculture, Defense, Energy, Homeland Security, the Interior, Labor, State, Transportation, and the Treasury, Office of the U.S. Trade Representative, Small Business Administration, Agency for International Development, Trade and Development Agency, Overseas Private Investment Corporation, Export-Import Bank, Environmental Protection Agency, Council of Economic Advisers, Office of Management and Budget, National Economic Council, and National Security Council. 15 U.S.C. § 4727(d), note.

Centers, including business facilities, business services, and commercial law information services, are required to be provided on a user-fee basis. Id.

G. National Tourism Organization Act of 1996

Section 302 of the United States National Tourism Organization Act of 1996 created the Tourism Policy Council to ensure that the U.S. national interest in tourism is fully considered in Federal decision-making. 22 U.S.C. § 2124. The Council is chaired by the Secretary and includes the Under Secretary of Commerce for International Trade, the Secretaries of State, Interior, Labor, and Transportation, the Director of the Office of Management and Budget, and others. The Council submits an annual report to the President each year on its activities, accomplishments and recommendations.

H. Travel Promotion Act of 2009 and Executive Order on Travel and Competitiveness

The Travel Promotion Act of 2009 (TPA) establishes the Corporation for Travel Promotion (Corporation), a non-profit corporation that will communicate U.S. entry policies and promote travel to the United States. Pub. L. No. 111-145 (2010). The TPA directs the Secretary (after consultation with the Secretaries of Homeland Security and State) to appoint the board of directors for the Corporation, to approve the annual objectives for the Corporation, and to transmit the Corporation's annual report to Congress. Through FY 2015, the Corporation is eligible for up to \$100 million annually in federal matching funds; pursuant to a memorandum of understanding with the Department of the Treasury and the Corporation, the Department agreed to determine whether private contributions received by the Corporation are eligible for federal match.

The TPA establishes an Office of Travel Promotion within the Department of Commerce to serve as a liaison to the Corporation and to work with the Corporation and the Secretaries of State and Homeland Security to disseminate information about entry procedures; ensure that arriving visitors are welcomed with accurate information; collect data on the total number of international visitors that visit each State; and enhance the entry and exit experience for visitors. The TPA directs ITA's Office of Travel and Tourism Industries to expand its research with respect to promoting travel to the United States.<sup>6</sup> The September 2013 consolidation established the National Travel and Tourism Office, which performs these functions as well as those of the prior Office of Travel and Tourism Industries.

In January 2012, by Executive Order, the President established a Task Force on Travel and Competitiveness to develop (and report to the President) a National Travel and Tourism Strategy; the Task Force is co-chaired by the Secretaries of Commerce and Interior.<sup>7</sup> The

---

<sup>6</sup> Specific areas for expanded research include: access to official Mexican travel surveys data; expanding the number of inbound air travelers surveyed; developing estimates of international visitors on a state-by-state basis; evaluating the success of the Corporation in achieving its objectives; and research to support the annual reports required by the Corporation.

<sup>7</sup> Exec. Order No. 13597, 77 Fed. Reg. 3373 (January 24, 2012). The Task Force also includes senior level officials from the Departments of State, Treasury, Agriculture, Labor, Transportation, and Homeland Security, and the Army

Secretary of Commerce is to coordinate the Task Force's work with the Corporation for Travel Promotion, the Tourism Policy Council, and the United States Travel and Tourism Advisory Board. The Executive Order also directed Commerce to maintain a publicly available website providing updated metrics from across the Federal Government to assist industry and travelers in understanding the current status of the industry and its relevance to the economy, statistics on visa processes in key travel and tourism markets, and entry times into the United States.

## I. National Export Initiative

President Obama established the National Export Initiative (NEI) through Executive Order 13534, which was signed on March 11, 2010.<sup>8</sup> The Executive Order established an interagency Export Promotion Cabinet, of which the Secretary of Commerce is member, to develop and coordinate the implementation of the NEI. The NEI directs the Export Promotion Cabinet and its members to undertake activities to improve conditions that directly affect the private sector's ability to export. The NEI specifically directs the Secretary of Commerce to ensure that U.S. Government-led trade missions effectively promote exports by U.S. companies and directs members of the Export Promotion Cabinet to coordinate with Commerce's Advocacy Center to ensure that the Federal Government's commercial advocacy effectively promotes exports by U.S. companies. The TPCC is responsible for coordinating with the Export Promotion Cabinet, for providing to the President the Export Promotion Cabinet's comprehensive plan for carrying out the goals of the NEI, and for setting forth the steps taken to implement this plan in its annual report to Congress.

On May 13, 2014, Secretary Pritzker announced the NEI/NEXT that will build on the success of the NEI. The NEI/NEXT is a new customer-service driven strategy with improved information resources that will ensure American businesses are fully able to capitalize on expanded opportunities to sell their goods and services abroad. NEI/NEXT will help more American companies reach more overseas markets by improving data, providing information on specific export opportunities, working more closely with financing organizations and service providers, and partnering with states and communities to empower local export efforts. NEI/NEXT will be implemented through the Export Promotion Cabinet and Trade Promotion Coordinating Committee (TPCC).

## J. Advocacy

Created in 1993, the Advocacy Center, housed in ITA, coordinates U.S. Government resources and authority in order to level the playing field on behalf of U.S. business interests as they compete against foreign firms for specific international contracts or other U.S. export opportunities. In 2012, the President issued an Executive Order establishing an Interagency Task Force on Commercial Advocacy, chaired by the Secretary of Commerce.<sup>9</sup> In addition to Commerce, the following agencies make up the task force: State, Treasury, Defense,

---

Corps of Engineers, USTR, and the Export-Import Bank.

<sup>8</sup> Exec. Order No. 13534, 75 Fed. Reg. 12433 (March 16, 2010).

<sup>9</sup> Exec. Order No. 13630, 77 Fed. Reg. 73893 (December 6, 2012).

Agriculture, Health and Human Services, Transportation, Energy, Homeland Security, U.S. Agency for International Development, Export-Import Bank of the United States, Millennium Challenge Corporation, Overseas Private Investment Corporation, Small Business Administration, and U.S. Trade and Development Agency.

## 2. TRADE POLICY DEVELOPMENT AND NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

### A. Role of the United States Trade Representative

The Office of the Special Representative for Trade Negotiations was created in 1962 to oversee U.S. participation in the Kennedy Round of Multilateral Trade Negotiations.<sup>10</sup> Since then, the Office has grown considerably in size and functions.

Following the conclusion of the Tokyo Round of Multilateral Trade Negotiations, the Office was renamed and reconstituted through Reorganization Plan No. 3 as the Office of the United States Trade Representative (“USTR”) and accorded major new responsibilities for the coordination and development of U.S. trade policy.<sup>11</sup> See 19 U.S.C. § 2171 note.

The Omnibus Trade and Competitiveness Act of 1988 codified a further-expanded role of the USTR. Section 1601 of that Act as amended provides that the USTR, among other things, shall:

- (A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;
- (B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;
- (C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including all negotiations on any matter considered under the auspices of the World Trade Organization, commodity and direct investment negotiations, in which the United States participates;
- (D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, including any matter considered under the auspices of the World Trade Organization, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;
- (E) act as the principal spokesman of the President on international trade;
- (F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

---

<sup>10</sup> See The Trade Expansion Act of 1962, § 241, 19 U.S.C. § 1872; see also Exec. Order No. 11075, 28 Fed. Reg. 473 (Jan. 15, 1963).

<sup>11</sup> Reorganization Plan No. 3 also provided that “nothing [in this Reorganization Plan] is intended to derogate from the responsibility of the Secretary of State for advising the President on foreign policy matters, including the foreign policy aspects of international trade and trade-related matters.” 19 U.S.C. § 2171 note.

- (G) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;
- (H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);
- (I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 [i.e., the Trade Policy Committee, discussed *infra*], and shall consult with and be advised by such organization in the performance of his functions....”

19 U.S.C. §2171(c).

This gives USTR the primary role in the development of U.S. international trade policy and foreign direct investment policy (to the extent it is related to international trade agreements) and in the administration of the trade agreements program.<sup>12</sup> USTR chairs virtually all inter-agency groups that staff major international trade negotiating issues and objectives; chairs or co-chairs all international trade negotiating teams (agricultural teams are co-chaired by USDA, financial services teams are co-chaired by Treasury); and acts as principal drafter and coordinator of U.S. negotiating papers and trade texts.

USTR nominates members of the Advisory Committee on Trade Policy and Negotiations (“ACTPN”) and generally provides staff and administrative services to the ACTPN. 19 U.S.C. § 2155(b). The President established the ACTPN and appoints its members. Id.

USTR chairs the Trade Policy Committee (“TPC”), a Cabinet-level committee that Congress intended to be the principal interagency forum on international trade policy matters. 19 U.S.C. § 1872. The TPC advises the President and USTR on development and implementation of trade policy objectives. Id. The Secretary of Commerce, along with USTR and the Secretaries of State, Treasury, Agriculture, and Labor, is a statutory member of the TPC. 19 U.S.C. § 1872(a)(3).<sup>13</sup> The TPC is the Secretarial-level interagency trade committee, corresponding to the Trade Policy Review Group (the sub-cabinet interagency trade committee chaired by a Deputy USTR) and the Trade Policy Staff Committee (the staff-level interagency trade committee chaired by a USTR senior staff official).<sup>14</sup>

---

<sup>12</sup> Executive Order 11846 defines the “trade agreements program” as “all activities consisting of, or related to, the negotiation or administration of international agreements which primarily concern trade and which are concluded pursuant to the authority vested in the President by the Constitution, Section 350 of the Tariff Act of 1930, as amended, the Trade Expansion Act of 1962, as amended, or [the Trade Act of 1974].” Exec. Order No. 11846, 40 Fed. Reg. 14291 (March 27, 1975).

<sup>13</sup> The TPC was first called for by Section 242 of the Trade Expansion Act of 1962 (P.L. 87-794). See 19 U.S.C. § 1872. Its functions were clarified by Reorganization Plan No. 3. See 19 U.S.C. § 2171 note. Section 242 was amended by Section 1621 of the Omnibus Trade and Competitiveness Act of 1988. See 19 U.S.C. § 1872.

<sup>14</sup> USTR conducts staff-level inter-agency trade consultations through the Trade Policy Staff Committee (“TPSC”). The TPSC was established by USTR by regulation. 15 C.F.R. § 2002.2 (2008). Its membership includes USTR (chair), Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury, and the International Trade Commission (nonvoting). Id. Other agencies also participate as appropriate, as do certain White House offices. Subcommittees are established and terminated according to need. The TPSC reports to the Trade Policy Review Group (“TPRG”), a sub-Cabinet level body that meets on an occasional basis and, among other things, resolves issues elevated by the TPSC. 15 C.F.R. § 2002.1. The TPRG includes representatives from Agriculture,

## B. Role of Commerce

### 1. Trade Policy and Negotiations

Commerce plays an important supporting role (along with Treasury, Agriculture, and State) in the development of trade policy and the conduct of trade negotiations. Commerce possesses country and sectoral expertise, economic analysis capability, and access to industry and other stakeholder views, that are essential to the process.

This expertise was recognized by the President in his message to the Congress accompanying Reorganization Plan No. 3. The President stated:

With its new responsibilities and resources, the Department of Commerce will become a key participant in the formulation of our trade policies. Much of the analysis in support of trade policy formulation will be conducted by the Department of Commerce, which will be close to the operational aspects of the problems that raise policy issues.

19 U.S.C. § 2171 note.

Commerce provides extensive support to USTR in trade negotiations. Commerce also advises on and participates in negotiations in bilateral and multilateral fora, including the World Trade Organization, the United Nations, and the Organization for Economic Cooperation and Development, on matters including trade, intellectual property rights, anticorruption, commercial law, and investment.

Under section 135 of the Trade Act of 1974, which provides for consultations with the private sector in regard to trade negotiations, Commerce shares with USTR responsibility for the membership and operations of the Industry Trade Advisory Committees (“ITACs”). 19 U.S.C. § 2155.<sup>15</sup> ITA also operates the President’s Export Council (“PEC”), which was established in 1973 by Executive Order 11753,<sup>16</sup> and the Manufacturing Council, which was established by Secretary Evans in January 2004.

Section 210 of the Consolidated Appropriations Resolution of 2003 established the U.S. Travel and Tourism Promotion Advisory Board to make recommendations to the Secretary regarding funding for activities in support of an international advertising and promotional campaign to encourage individuals to travel to the United States. 22 U.S.C. § 2122 note. In 2005, pursuant to

---

Commerce, Defense, Interior, Labor, State and Treasury. Id. Other agencies also participate as appropriate, as do certain White House offices.

<sup>15</sup> Section 4(d) of Executive Order 11846 states that in establishing and organizing the sector advisory committees, such as the ITACs, USTR “shall act through the Secretaries of Commerce, Labor, and Agriculture, as appropriate.”

<sup>16</sup> Executive Order 11753 was revoked by Executive Order 12131, which continued and expanded the membership of the PEC. See Exec. Order No. 12131, 44 Fed. Reg. 26841 (May 4, 1979), as amended. The most recent executive order continuing the PEC was Executive Order 13652. Exec. Order No. 13652, 78 Fed. Reg. 61817 (October 4, 2013). It expires on September 30, 2015.

15 U.S.C. § 1512, the U.S. Travel and Tourism Promotion Advisory Board was reconstituted as the U.S. Travel and Tourism Advisory Board (“TTAB”) to advise the Secretary on matters related to the travel and tourism industry and to act as a liaison between government and the private sector. Under its charter, the TTAB can have up to thirty-two members who represent companies and organizations in the travel and tourism sector.

## 2. Trade Agreement Implementation

Reorganization Plan No. 3, among other things, delegated to Commerce the role of monitoring the implementation of multilateral trade agreements. The President's message accompanying Reorganization Plan No. 3 stated: “The Department of Commerce will be responsible for day-to-day implementation of non-agricultural aspects of [multilateral] agreements.” 19 U.S.C. § 2171 note. ITA was established, in part, to fulfill this mandate.<sup>17</sup> ITA provides the permanent office of the U.S. section of the North American Free Trade Agreement (“NAFTA”) Secretariat, which provides administrative assistance to NAFTA dispute settlement panels.<sup>18</sup> ITA performs this function, and a similar function for other U.S. free trade agreements, through its Office of Trade Agreement Secretariats.<sup>19</sup> In 1998, USTR and Commerce agreed that USTR’s Monitoring and Enforcement Unit would focus “on trade agreement implementation and pursuing enforcement actions, using dispute settlement procedures and applying the full range of U.S. trade laws that USTR administers” and Commerce’s Trade Compliance Center would focus “on analyzing foreign trade barriers, identifying possible trade agreement violations, and determining ways to ensure that the United States is getting the full benefits of its trade agreements.”<sup>20</sup> In 2012, the President by Executive Order created within USTR the Interagency Trade Enforcement Center (“ITEC”) to coordinate matters relating to enforcement of U.S. trade rights under international trade agreements and enforcement of domestic trade laws among USTR, Commerce, and other

---

<sup>17</sup> The President's Message accompanying Reorganization Plan No. 3 stated:

“Building implementation of MTN [multilateral trade negotiations] around this core group will assure that the government's institutional memory and expertise on MTN is most effectively devoted to the challenge ahead. When American business needs information or encounters problems in the MTN area, it can turn to the Department of Commerce for knowledgeable assistance.... Commerce, with its ability to link trade to policies affecting industry, is uniquely suited to serve as the principal technical expert within the Government on special industry sector problems requiring international consultation, as well as to provide industry-specific information on how tax, regulatory and other Government policies affect the international competitiveness of the U.S. industries.”

<sup>19</sup> U.S.C. 2171 note.

<sup>18</sup> See Exec. Order No. 12889, 58 Fed. Reg. 69681 (Dec. 27, 1993) (establishing the U.S. section of the NAFTA Secretariat within Commerce).

<sup>19</sup> See, e.g., Proclamation 8039 (July 27, 2006), delegating to the Secretary of Commerce the authority to designate an office within Commerce responsible for providing administrative assistance to panels under the U.S.-Bahrain Free Trade Agreement. This responsibility exists for the North American Free Trade Agreement, United States-Dominican Republic-Central America Free Trade Agreement, and our free trade agreements with Chile, Singapore, Australia, Morocco, Bahrain, Peru, Korea, Oman, Colombia and Panama.

<sup>20</sup> January 1998 Memorandum for the National Economic Council from Secretary of Commerce William Daley and U.S. Trade Representative Charlene Barshefsky.

key agencies.<sup>21</sup> The Director of the ITEC, an official at USTR, reports to the USTR, while the Deputy Director, who is a Commerce Department official, reports to the Director. The Executive Order states that other agencies are encouraged to detail or assign employees to the ITEC without reimbursement to support the ITEC's mission.

### 3. TRADE REMEDIES AND IMPOSITION OF TRADE SANCTIONS

#### A. Antidumping and Countervailing Duty Investigations

The Secretary of Commerce has exclusive responsibility within the Executive Branch for administering the Antidumping ("AD") and Countervailing Duty ("CVD") laws. See 19 USC § 2171 note (Reorganization Plan No. 3). The Secretary, acting through the Enforcement and Compliance unit of the ITA, processes petitions from firms that allege they have been harmed by unfair competition from imports (or, on rare occasions, self-initiates investigations), makes preliminary and final determinations about whether such imports were dumped or benefitted from government subsidies, and conducts periodic administrative reviews of AD/CVD orders. See Dept. Organizational Order 40-1 § 7. Merchandise found to be subsidized or dumped is subject to duties as needed to offset the advantage conferred by the unfair practice.

- **Dumping:** The AD law addresses the unfair trade practices of price discrimination among national markets or selling below cost. It provides for the imposition of antidumping duties when the Secretary of Commerce finds that the subject merchandise is being, or is likely to be, sold in the United States at less than normal value (below the price charged for the like product in the producer's home market, or below the cost of production). Before AD duties may be imposed, the International Trade Commission ("ITC") must determine that an industry in the United States is materially injured or threatened with material injury, or that establishment of an industry is materially retarded, by reason of imports of the dumped goods. See 19 U.S.C. §§ 1673 et seq.
- **Subsidization:** The CVD law provides for the imposition of countervailing duties on goods exported to the United States which the Secretary of Commerce determines have benefited from a financial contribution provided by a foreign government to a specific industry or group of industries. Countervailable subsidies may take the form of, *inter alia*, direct cash grants, tax credits, or the provision on preferential terms of loans, equity, or goods. For WTO members, or countries that have assumed substantially equivalent obligations (most of our trading partners), the ITC must determine that the imports are causing or threatening to cause material injury to the U.S. industry, or are materially retarding the establishment of an industry, before countervailing duties may be assessed. See 19 U.S.C. §§ 1671 et seq.

AD and CVD investigations are governed strictly by U.S. law and regulation. Investigations are subject to strict time limits and relief is mandatory if the Secretary of Commerce and the ITC

---

<sup>21</sup> Exec. Order No. 13601, 77 Fed. Reg. 12981 (March 5, 2012). Listed agencies were USTR, the Departments of State, Treasury, Justice, Agriculture, Commerce, and Homeland Security, and the Office of the Director of National Intelligence.

make the requisite findings. AD and CVD determinations are subject to judicial review in the Court of International Trade and the Court of Appeals for the Federal Circuit. 19 U.S.C. § 1516a. Determinations involving products from Canada or Mexico are subject to alternate review before NAFTA binational panels. 19 U.S.C. § 3434. In addition, AD and CVD determinations may be challenged before WTO dispute settlement panels as inconsistent with the WTO Agreements on Antidumping and on Subsidies and Countervailing Measures, although the Uruguay Round Implementation Act revised our laws to conform them to those agreements.

#### B. Sections 201 and 421

Under section 201 of the Trade Act of 1974, the President may take action to protect domestic industries from injurious imports by imposing “safeguard measures.”<sup>22</sup> 19 U.S.C. § 2251. A domestic industry seriously injured or threatened with serious injury by increased imports may petition the United States ITC for relief. 19 U.S.C. § 2252. If the ITC makes an affirmative injury determination, it recommends to the President relief that would prevent or remedy the injury and facilitate the industry’s adjustment to import competition. 19 U.S.C. § 2253(a)(1)(C). The President, pursuant to section 201, makes the final decision whether to provide relief after receiving a recommendation from the Trade Policy Committee regarding appropriate relief. 19 U.S.C. § 2253(a); 19 U.S.C. § 1872(b)(2). Section 421 of the Trade Act of 1974 provided a similar process for China-specific safeguards, which were allowed under the terms of China’s WTO accession until 2013. See 19 U.S.C. § 2451.

#### C. Section 301

Section 301 of the Trade Act of 1974, as amended, is the primary statutory authority under which the United States may take action to eliminate acts, policies and practices of foreign governments that violate (or deny U.S. rights and benefits under) trade agreements, or constitute unjustifiable, unreasonable or discriminatory restrictions on U.S. commerce. 19 U.S.C. § 2411. Section 301 charges USTR with determining whether U.S. rights under trade agreements are being violated or a foreign act, policy or practice otherwise is unjustifiable and burdens or restricts U.S. commerce, considering petitions for action under Section 301, and in appropriate circumstances, imposing retaliation. Id. Commerce plays an important role as a member of the Section 301 Committee (which reviews Section 301 petitions, holds hearings on such petitions, and reports to the TPSC (15 C.F.R. § 2002.3)), and otherwise assists USTR with Section 301 investigations, including developing U.S. retaliation lists that are implemented by USTR.

#### D. “Super 301”

Section 310 of the Trade Act of 1974, the so-called “Super 301” provision, was added to section 301 by the Omnibus Trade and Competitiveness Act of 1988 to require USTR to prioritize actions, policies and practices identified under section 301 and to pursue prompt and effective negotiations for their elimination. 19 U.S.C. § 2420. Section 310 expired at the end of 1990.

---

<sup>22</sup> A safeguard measure may, for example, take the form of an increase in or imposition of a duty, a tariff-rate quota, an imposition of or modification of a quantitative restriction, or any combination of such measures.

President Clinton re-established a Super-301-like mechanism for calendar years 1994 and 1995 by Executive Order 12901, as amended, signed on March 3, 1994. Exec. Order No. 12901, 59 Fed. Reg. 10727 (March 3, 1994). Section 314(f) of the Uruguay Round Agreements Act codified the terms of Executive Order 12901 for calendar year 1995. See 19 U.S.C. § 2420 note. President Clinton again re-established Super 301 procedures for calendar years 1999, 2000 and 2001 by Executive Order 13116 signed on March 31, 1999. Exec. Order No. 13116, 64 Fed. Reg. 16333 (March 31, 1999). These provisions have not been re-established.

E. “Special 301”

Section 182 of the Trade Act of 1974, as amended by section 1301 of the Omnibus Trade and Competitiveness Act of 1988, requires USTR annually to designate as “priority” countries that deny adequate and effective protection of intellectual property rights or fair and equitable market access for U.S. persons that rely on intellectual property protection. 19 U.S.C. § 2242(a). USTR is required to initiate a Section 301 investigation with respect to any country so designated. 19 U.S.C. § 2412(b). USTR chairs the interagency Trade Policy Staff Committee Special 301 subcommittee, which makes recommendations to the Trade Policy Staff Committee on Special 301 matters. As a matter of administrative practice, USTR has established a Special 301 “priority watch list” and “watch list,” which it uses to identify countries of concern with respect to IPR matters.

F. Subsidies Enforcement

Commerce is required to monitor and maintain a library of information related to foreign subsidy practices and countervailing measures to be made available to the public. 19 U.S.C. § 1677f(a)(1). Commerce also assists and advises the public on remedies and benefits available to them under the WTO Subsidies Agreement. 19 U.S.C. § 3571(a). USTR and Commerce must submit a joint report to the Congress each year that describes the Administration’s subsidy monitoring and enforcement activities throughout the previous year. 19 U.S.C. § 3571(f)(4).

G. Quota Cheese Subsidies

Under the Harmonized Tariff Schedule of the United States, Commerce is required to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, and to publish an annual list and quarterly updates of the type and amount of those subsidies. 19 U.S.C. § 1202 note; 19 C.F.R. §§ 351.601-602.

H. Steel Import Monitoring

The Steel Import Monitoring and Analysis (“SIMA”) system provides steel producers, steel consumers, importers, and the general public with accurate and timely information on anticipated imports of certain steel products. 13 U.S.C. §§ 301(a) and 302; 19 C.F.R. §§ 360.101-108.

Import licenses, obtained through the Internet-based SIMA licensing system, are required on U.S. imports of basic steel mill products. 19 C.F.R. § 360.101. Aggregate import data obtained from the licenses is updated weekly and posted on the SIMA Web site monitor. 19 C.F.R. § 360.104.

#### 4. TRADE PROMOTION AUTHORITY

To facilitate the negotiation and implementation of multilateral trade agreements, section 102 of the Trade Act of 1974 authorized the President to enter into such trade agreements and provided for expedited consideration of legislation implementing agreements entered into under this authority. 19 U.S.C. § 2112. This authority, formerly referred to as “fast track,” was effective for an initial five-year period beginning on January 3, 1975. *See id.* The President’s authority was subsequently renewed, most recently by the Trade Act of 2002, which renewed “trade promotion authority” (“TPA”) for agreements entered into before July 1, 2007. 19 U.S.C. § 3803.

The lapsed TPA procedures required the President to notify and consult with congressional committees regarding the negotiation of trade agreements. 19 U.S.C. § 3804. In addition, 90 days prior to entering into any trade agreement, the President must have notified the Congress of his intention to enter into such an agreement. 19 U.S.C. § 3805(a)(1)(A). He must also have consulted with the appropriate congressional committees before entering into any trade agreement. 19 U.S.C. § 3804. Within 60 days after entering into the agreement, the President must have submitted to the Congress a description of those changes to existing laws that would be required in order to bring the United States into compliance with the agreement. 19 U.S.C. § 3805(a)(1)(B). Finally, after the President enters into a trade agreement, he must submit to the Congress a copy of the final legal text of the agreement; a draft of an implementing bill and a statement of any administrative action proposed to implement the agreement; and other supporting information. 19 U.S.C. § 3805(a)(1)(C).

Agreements entered into under TPA are subject to expedited congressional procedures. *See* 19 U.S.C. § 2191. Once an implementing bill is introduced in Congress, it may not be amended by either House. *Id.* Therefore, for an agreement subject to TPA, the Congress is limited to an “up or down” vote on the implementing bill as introduced. Floor votes in both chambers typically must occur within 90 days of the bill’s introduction.<sup>23</sup>

#### 5. NEGOTIATION OF OTHER INTERNATIONAL AGREEMENTS

The Department of State has primary responsibility for the negotiation of treaties (as opposed to international trade “agreements,” which are discussed above), with the exception of Bilateral

---

<sup>23</sup> With respect to the U.S.-Colombia Trade Promotion Agreement, on April 8, 2008, President Bush submitted to Congress proposed implementing legislation. On that date, the bill was introduced in the House of Representatives as H.R. 5724 and in the Senate as S. 2830. On April 10, 2008 the House of Representatives adopted H. Res. 1092, which eliminated the TPA requirement that the House bring H.R. 5724 to the floor within 60 legislative days. In 2012, Congress passed legislation to implement that agreement and utilized TPA procedures to do so. United States-Colombia Trade Promotion Agreement Implementation Act, P.L. 112-42 (2012).

Investment Treaties (“BITs”), which are a joint responsibility of State and USTR. Other international agreements may be negotiated by other agencies subject to the Case-Zablocki Act.

Under the Case-Zablocki Act (1 U.S.C. § 112b), the Department of State is responsible for reporting to the Congress all significant international agreements as they are signed. State has issued regulations intended to provide for adequate coordination of the negotiation process. These “Case Act” regulations require prior approval by State of the negotiation and signing of all such agreements by any executive agency.

In the past, the Secretary, through ITA, has negotiated agreements for the establishment of bilateral Joint Commercial Commissions pursuant to Commerce’s organic mandate to “foster, promote and develop the foreign and domestic commerce of the United States.” 15 U.S.C. § 1512. The most prominent of these is the U.S.-China Joint Commission on Commerce and Trade, which still meets annually and is now co-chaired on the U.S.-side by the Secretary and USTR. Similarly, the Secretary has established and co-chairs a number of bilateral commercial dialogues, including the U.S.-Brazil CEO Forum and the U.S.-Iraq Business Dialogue. The Case-Zablocki Act has not applied to the international understandings used to establish these dialogues.

## 6. INVESTMENT MATTERS

### A. SelectUSA Initiative

On June 15, 2011, the President issued an Executive Order<sup>24</sup> establishing the SelectUSA Initiative, housed within the Department, to attract and retain business investment in the American economy. The Initiative coordinates outreach to promote the United States as an investment destination, serves as an ombudsman to facilitate resolution of federal issues related to pending investments, and reports quarterly to the President. The Initiative’s Executive Director (who is appointed by the Secretary of Commerce) also chairs the Federal Interagency Investment Working Group, which was established by the same Executive Order. The Working Group, made up of senior officials from 24 federal agencies and offices, is to coordinate activities to promote business investment and respond to specific issues that affect business investment decisions.

### B. Committee on Foreign Investment in the United States

The “Exon-Florio” amendment to the Defense Production Act of 1950 gives the President authority to review, investigate and block acquisitions of U.S. businesses by foreign persons that may impair the national security. See 50 U.S.C. App. § 2170. The provision was enacted by Congress as part of the Omnibus Trade and Competitiveness Act of 1988 and substantially amended by the Foreign Investment and National Security Act of 2007 (“FINSA”). The

---

<sup>24</sup> Exec. Order No. 13577, 76 Fed. Reg. 35715 (June 20, 2011).

Committee on Foreign Investment in the United States (“CFIUS”) is an inter-agency committee chaired by Treasury which conducts reviews and investigations and makes recommendations to the President under Exon-Florio. CFIUS was formed by Executive Order in 1975<sup>25</sup> and was codified by FINSA. Current CFIUS membership includes: Commerce, Treasury, State, Defense, Homeland Security, Justice, Energy, USTR, and Office of Science and Technology Policy. 50 U.S.C. App. § 2170(k). Within Commerce, ITA has lead responsibility for CFIUS matters, in consultation with the Bureau of Industry and Security and other Commerce units as appropriate.

C. Bilateral Investment Treaties and Agreements

Commerce is a member of inter-agency teams that negotiate bilateral investment treaties. U.S. delegations are headed by State and/or USTR (see section 5, above).

7. OTHER AUTHORITIES AND FUNCTIONS

A. Export Trading Companies

Title I of the Export Trading Company Act of 1982 directs the Secretary to establish an office to promote the formation of export trade associations and export trading companies. 15 U.S.C. § 4001 *et seq.* Title III of the Act gives the Secretary authority to issue a certificate of review, providing substantial immunity from the antitrust laws, to any person whose export trade activities and methods of operation will not cause substantial domestic anticompetitive effects. 15 U.S.C. §§ 4011-13. The Attorney General must concur in the issuance of a certificate. 15 U.S.C. 4013. ITA has issued implementing regulations, which are codified at 15 C.F.R. part 325. That Act notes in its finding that “the Department of Commerce is responsible for the development and promotion of United States exports, and especially for facilitating the export of finished products by United States manufacturers.”

B. Textiles and Apparel

Executive Order 11651, as amended, established the inter-agency Committee for the Implementation of Textile Agreements (“CITA”) to supervise the implementation of textile trade agreements. Exec. Order No. 11651, 37 FR 4699 (March 3, 1972). CITA is chaired by Commerce. The other CITA members are State, USTR, Labor and Treasury. *Id.* CITA has authority to take, or recommend that other agencies take, actions necessary to implement all U.S. textile trade agreements, including textile provisions in U.S. free trade agreements, and to take appropriate actions with respect to other matters affecting textile trade policy. Under authority delegated to CITA by the President, CITA also is responsible for administering other aspects of the U.S. textile import program, including textile provisions of U.S. trade preference programs.<sup>26</sup>

---

<sup>25</sup> Exec. Order No. 11858, 40 Fed. Reg. 20263 (May 7, 1975), as amended.

<sup>26</sup> CITA takes or recommends actions relating to the textiles provisions of various trade agreements and trade preference programs authorized by the following legislation:

a) African Growth and Opportunity Act (“AGOA”): Trade and Development Act, P.L. 106-200 (2000), as amended by the Trade Act of 2002, P.L. 107-210 (2002); AGOA Acceleration Act of 2004, P.L. 108-274

Commerce’s Office of Textiles and Apparel (“OTEXA”) is responsible for implementation of textile trade agreements and textile provisions of the U.S. trade preference programs and for carrying out other decisions made by CITA. In addition to administering certain textile provisions of U.S. free trade agreements, OTEXA implements the Haiti HOPE Earned Import Allowance Program,<sup>27</sup> the Wool Fabric Tariff Rate Quota Program,<sup>28</sup> and the Cotton Shirting Fabric Tariff Rate Quota.<sup>29</sup>

C. Trade Fair Act of 1959

The Trade Fair Act of 1959 authorizes a regulatory procedure for the import of goods for exhibition at domestic trade fairs without payment of customs duties. 19 U.S.C. § 1751. The Secretary of Commerce may designate a domestic trade fair if the Secretary determines that allowing the duty-free import of goods for exhibition at the fair will satisfy “the public interest in promoting trade.” *Id.* This authority has been delegated to ITA.<sup>30</sup>

D. Mutual Educational and Cultural Exchange Act of 1961

Section 102 of the Mutual Educational and Cultural Exchange Act of 1961 (“MECEA”), authorizes “United States participation in international fairs and expositions abroad, including trade and industrial fairs,” by grant, contract, or otherwise. 22 U.S.C. § 2452(a)(3). This authority was delegated to Commerce by Executive Order 11034, as amended. Exec. Order No. 11034, 27 FR 6071 (June 25, 1962). Section 108 of MECEA authorizes the United States to “provide for all necessary expenditures involved in the selection, purchase, rental, construction,

---

(2004); Miscellaneous Trade and Technical Corrections Act of 2004, P.L. 108-429 (2004); Africa Investment Incentive Act of 2006, P.L. 109-432 (2006); An Act to Extend the Andean Trade Preference Act and for Other Purposes, P.L. 110-436 (2008).

- b) Andean Trade Preferences and Drug Eradication Act (“ATPDEA”): Andean Trade Preferences Act (“ATPA”), 19 U.S.C. § 3201 et seq. (1991), as amended by the Andean Trade Preferences and Drug Eradication Act (“ATPDEA”), P.L. 107-210 (2002), the Andean Trade Preferences Extension Act, P.L. 109-432 (2006), and the Andean Trade Preferences Extension Act, P.L. 110-191 (2008).
- c) Dominican Republic- Central America-United States Free Trade Agreement (“CAFTA-DR”): Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, P. L. 109-53 (2005), as amended by the Andean Trade Preference Extension Act, P.L. 110-436 (2008).
- d) North American Free Trade Agreement: NAFTA Implementation Act of 1993, P.L. 103-182 (1993); 19 U.S.C. 3301.
- e) Haitian Hemispheric Opportunity Through Partnership For Encouragement Act (HOPE): The Caribbean Basin Economic Recovery Act (“CBERA”), as amended by the Caribbean Basin Trade Partnership Act (“CBTPA”), Title II of the Trade and Development Act of 2000, P.L. 106-200 (2000); the Trade Act of 2002, Division C, Title XXXI, P.L. 107-210 (2002); the Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2006, Title V of the Tax Relief and Health Care Act of 2006, P.L. 109-432 (2006); and the Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2008, Title XV, Subtitle D, Part I of the Food, Conservation, and Energy Act of 2008, PL. 110-432 (2008).

<sup>27</sup> Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2008, Title XV, Subtitle D, Part I of the Food, Conservation, and Energy Act of 2008, P.L. 109-432 (2008), as amended by the Haiti Economic Lift Program Act of 2010, P.L. 111-171 (2010).

<sup>28</sup> Pursuant to the Trade and Development Act of 2000, P.L. 106-200 (2000), as amended, and Presidential Proclamation 7383 (Dec. 1, 2000).

<sup>29</sup> Pursuant to Section 406 of the Tax Relief and Health Care Act of 2006, P.L. 109-432 (2006).

<sup>30</sup> Dept. Organization Order 10-3.

or other acquisition of exhibits and materials and equipment therefor, and the actual display therefore” when participating in international fairs and expositions abroad. 22 U.S.C. § 2458(c). This authority was also delegated to Commerce by Executive Order 11034, as amended.

In the annual ITA appropriations, Congress has authorized ITA to accept contributions pursuant to section 105 of MECEA, which authorizes the acceptance and use of funds from foreign governments, international organizations, private individuals, firms, associations, agencies and other groups, in carrying out this authority. 22 U.S.C. § 2455(f). ITA relies on this authority to retain moneys generated by ITA-sponsored trade fairs and related events and to use it for other similar activities, rather than turn it over to the general treasury.

#### E. P.L. 91-412

Section 1 of P.L. 91-412, the Joint Project Authority (“JPA”), authorizes the Secretary to “engage in joint projects, or perform services, on matters of mutual interests” with nonprofit organizations, research organizations, or public organizations or agencies. 15 U.S.C. § 1525. The costs of such projects must be apportioned equitably. Id. The JPA also authorizes Commerce, upon request of any person, to make special studies on matters within its authority. Id.

#### F. Foreign Trade Zones

The Foreign Trade Zones Act of 1934, as amended, authorizes the establishment of foreign trade zones (“FTZs”), which are designated areas within or adjacent to U.S. ports of entry. 19 U.S.C. § 81a-81u. Foreign merchandise imported into a FTZ is not subject to duty, formal entry procedures or quotas unless and until it is subsequently imported into U.S. customs territory. 19 U.S.C. § 81c. The FTZ program is administered by the FTZ Board, comprised of the Secretary of Commerce (chair), and the Secretary of Treasury. 19 U.S.C. § 81a.

#### G. Statutory Import Programs

Commerce administers several import programs involving watches, jewelry, and scientific instruments. The insular watch and jewelry programs are designed to encourage watch and jewelry production in the U.S. insular possessions and thereby stimulate development of the insular economies. Working in conjunction with auditors at the Department of Interior, Commerce issues annual allocations to watch producers (the number of duty free units each producer is permitted to ship into the United States) and duty refund certificates to watch and jewelry producers located in the U.S. insular possessions. The duty refund certificates are based on creditable wages per unit shipped duty-free into the United States customs territory. 19 U.S.C. § 1202 (additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States).

Commerce also reviews applications for duty-free treatment of certain scientific instruments for which there is no domestically produced equivalent. 19 U.S.C. § 1202 implements U.S. treaty

obligations under Annex D of the Florence Agreement, relating to the import of scientific instruments and apparatus. Treaty signatories agreed to waive duties on such imports if there is no scientifically equivalent instrument being manufactured in the country of importation and the instrument is to be used by a nonprofit institution established for scientific research or educational purposes.

Data on the duty-free entry of articles for the handicapped under Annex E (ii) of the Nairobi Protocol are recorded and tabulated in accordance with the safeguard provision of P.L. 100-418, as amended by P.L. 100-647. The safeguard provision allows U.S. companies or industries to petition to have the duties reinstated if U.S. companies or industries are being adversely impacted by the duty-free entry of certain articles for the handicapped.

Prepared by:

Office of the Chief Counsel  
for International Commerce  
Office of the General Counsel

Updated January 2016