

THE PRESIDENT'S 2013 TRADE POLICY AGENDA

[USTR 2013 annual report]

II. Enforce U.S. Trade Rights Under the Rules to Ensure a Level Playing Field

The rules-based international trading system offers the greatest economic benefits -- for U.S. businesses, workers, and families -- when all trading partners abide by their commitments and play by the rules to which they have agreed. For this reason, President Obama has elevated trade enforcement on par with market-opening efforts as a top priority for U.S. trade policy. Vigilant monitoring and rigorous enforcement of U.S. trade rights is necessary to ensure that American entrepreneurs, innovators, creators, workers, farmers, ranchers, manufacturers, and service providers are able to seize all of the job-supporting opportunities available under U.S. trade agreements. Consistent with President Obama's comprehensive approach to enforcement, the United States uses dialogue, negotiation, and dispute settlement as appropriate, to identify, reduce, and resolve tariff and non-tariff barriers to U.S. exports. These robust enforcement efforts help to level the playing field for U.S. firms of every size and produce real job supporting results for America's working families.

The United States in 2013 will continue to ensure implementation of WTO rules -- while also monitoring and enforcing obligations in our bilateral, plurilateral, and regional trade agreements -- in order to maintain open markets and to uphold key commitments. Where appropriate, we will expand our enforcement work in conjunction with fellow WTO Members who share our concerns related to trade practices that appear to be inconsistent with WTO rules. As we continue to deploy creative and effective enforcement strategies, our goal remains to ensure that Americans can compete successfully in world markets where intellectual property is protected, where agricultural and industrial standards are based on science, and where transparent rules and regulations are applied without discrimination.

In 2013, the Interagency Trade Enforcement Center (ITEC) will play an increasingly critical role in the Obama Administration's enforcement efforts. The ITEC brings together resources and expertise from across the federal government into one organization reporting to the USTR, led in close collaboration with the Department of Commerce and with a clear cross-government commitment to strong trade enforcement. The ITEC includes staff from a variety of agencies including the Departments of Commerce, Agriculture, Justice, Treasury, and State, and with a diverse set of language skills and expertise including intellectual property rights, subsidy analysis, economics, agriculture, and animal health science. This critical structure provides the Administration with increased capabilities to investigate unfair trading practices, and ITEC is significantly enhancing the Administration's capacity to enforce U.S. trade rights proactively.

Challenge WTO-Inconsistent Trade Practices in Markets Worldwide

The United States highly values the WTO's dispute settlement system, which plays an indispensable role

as the preeminent venue for the discussion and adjudication of disputes with our trading partners. In 2013, we will continue to use dialogue when possible and WTO dispute settlement when necessary to help preserve and support American jobs threatened by WTO-inconsistent practices wherever they may occur. We will continue to pursue a number of cases currently pending in various stages of WTO dispute settlement, and we may bring additional cases as appropriate to enforce WTO commitments and to remove potentially WTO-inconsistent practices identified through our investigations.

For example, in 2013, the United States will continue to hold China accountable for its WTO obligations to ensure that U.S. producers and workers have a level playing field to compete in a wide range of industries. To secure a level playing field in China for U.S. providers of electronic payment services (EPS), we will closely monitor China's compliance with an August 2012 WTO panel report that found China's discriminatory measures severely distort competition and prevent participation by foreign suppliers of EPS for domestic currency payment card transactions. To support U.S. farmers, manufacturers, and workers, the United States in 2013 will continue to challenge China's apparent misuse of its trade laws in antidumping and countervailing duties cases related to chicken broiler products and automobiles, and will closely monitor China's compliance with WTO findings that China's duties on grain-oriented electrical steel are inconsistent with WTO rules. More generally, the United States will also closely monitor China's compliance with its WTO obligations and will continue to investigate any trade practices that appear to be inconsistent with those obligations.

Tens of thousands of jobs for U.S. aerospace engineers, electricians, and related suppliers depend on U.S. aircraft manufacturers being able to compete globally on a level playing field. In 2013, the United States will continue to defend and uphold U.S. trade rights at the WTO, while working with the EU to find a long-term solution that removes WTO-inconsistent subsidies. In April 2012, the United States initiated compliance panel proceedings due to the EU's apparent failure to comply with the WTO's 2011 findings that \$18 billion in subsidies conferred on Airbus by the EU and member countries were WTO inconsistent.

In March 2012, the WTO Appellate Body found that the value of subsidies provided by the United States to American aerospace manufacturers was in the range of \$3-4 billion, and those subsidies had far fewer distortive effects on the aircraft market than subsidies provided by the EU. After the United States announced compliance by the end of its period of time for implementation, in October 2012, the EU initiated compliance panel proceedings, and the United States is vigorously defending its interests in the case. The United States remains prepared to engage in any meaningful efforts, through formal consultations and otherwise, that will lead to the goal of ending WTO-inconsistent subsidies at the earliest possible date.

The United States asserts WTO rules not only to vindicate U.S. trade rights, but also to promote and strengthen the WTO's core values related to open markets and nondiscrimination. To this end, we are expanding our cooperation with concerned trading partners to identify and respond to a range of WTO inconsistent practices that inhibit the free flow of trade and market-based competition.

Export prohibitions and restrictions imposed through quotas, licensing, or other measures (except duties, taxes, or charges) that serve to lower input costs for domestic users and raise costs for their foreign competitors are generally prohibited under WTO rules. During the past three years, we coordinated enforcement actions with the EU and Japan to challenge China's unfair export restraints on rare earths, tungsten, and molybdenum, and with the EU and Mexico to challenge China's export restraints on certain industrial raw materials. In 2013, we will continue to support U.S. manufacturing jobs and to defend manufacturers' trade rights to access key industrial inputs on a non-discriminatory basis, by continuing a WTO challenge to China's unfair export restraints on rare earths, tungsten, and molybdenum, and by seeking to ensure China's full and timely compliance with the WTO's decision in the raw materials case. WTO rules forbid subsidies that are contingent on exports or that discriminate against imports by being

contingent on using domestic products. In 2013, the United States will continue to challenge both forms of these trade-distorting, WTO-prohibited subsidies. To support U.S. auto and auto parts manufacturers and workers, we will continue to pursue a September 2012 WTO dispute settlement case concerning China's extensive subsidies to auto and auto parts producers located in designated regions, known as "export bases," that meet export performance requirements. The subsidies provide an unfair advantage to auto and auto parts manufacturers located in China, which are in competition with producers located in the United States and other countries. To provide U.S. clean energy goods and services an equal footing in India's large and growing market, the United States initiated a WTO dispute in February 2013 concerning India's national solar energy program. Through this program, India offers particular benefits to solar energy developers not available to projects under other energy programs in India, but imposes local content requirements that restrict the ability of those developers to use imported solar equipment. These local content requirements discriminate against U.S. and other imported goods, providing an unfair advantage to solar equipment manufacturers located in India. Under WTO rules, if the matter is not resolved through consultations within 60 days, the United States may request the establishment of a WTO dispute settlement panel.

According to WTO rules, import licensing requirements may not operate as an import prohibition or restriction and may not be discretionary. In January 2013, the United States obtained a WTO panel to review a number of measures put in place by Argentina, including the broad use of non-transparent and discretionary import licensing requirements, that have the effect of unfairly restricting U.S. exports to Argentina. In addition, Argentina disadvantages U.S. exports by requiring importers to agree to undertake burdensome trade balancing commitments, such as agreeing to export a certain value of Argentine goods, in exchange for authorization to import U.S. goods. The European Union and Japan also obtained WTO panels to examine Argentina's import restrictions. In January 2013, the United States requested consultations with Indonesia to address that country's import licensing requirements that appear to be inconsistent with Indonesia's WTO obligations. Indonesia's measures seriously impede U.S. agricultural exports to Indonesia and reduce Indonesian consumers' access to high-quality U.S. agricultural products. Under WTO rules, if the matter is not resolved through consultations within 60 days, the United States may request a WTO dispute settlement panel.

The WTO system works best when all Members have high confidence in the careful and appropriate application of rules. For example, any restrictions on agricultural trade must be consistent with WTO rules, particularly rules requiring sanitary and phytosanitary measures to be based on science. Therefore, in 2013 the United States will continue its WTO challenge of India's prohibition on the importation of certain U.S. agricultural products, including poultry meat and chicken eggs. The United States obtained a WTO panel in June 2012 to examine India's measure, which purports to be concerned with preventing avian influenza, but which lacks a scientific basis. In fact, India's measure appears inconsistent with both international standards and India's obligations under the WTO Agreement.

As always, the United States will when necessary continue to defend vigorously its right to utilize trade remedies, including antidumping and countervailing duties, consistent with WTO rules.

Intensify WTO Committee Work to Increase Accountability and Build Confidence Among Members

The day-to-day work of the WTO's standing committees and other bodies provide opportunities for the United States to monitor implementation of WTO commitments and raise specific trade concerns. For example, the United States regularly utilizes discussions of specific trade concerns in the Committee on Technical Barriers to Trade (TBT Committee) to highlight regulatory actions by other WTO Members that may impede U.S. exports and obtain information on their development and implementation. Overall, the United States has attempted to reenergize the daily work of the WTO, from pushing for strong results in the Triennial Review in the TBT Committee, to raising concerns with new trade-restrictive measures in

the Import Licensing Committee, Committee on Sanitary and Phytosanitary Measures, and Council for Trade in Goods.

In 2013, we will continue to utilize WTO committees and other WTO bodies to challenge new protectionist measures and consider approaches that can improve implementation of WTO commitments and build on these commitments. We will follow up on important concerns raised in 2012, including those regarding Ukraine's notification that it intends to raise tariff bindings on over 350 tariff lines. We will also work to elevate the vital role of the WTO's committee network in exploring emerging challenges surrounding issues such as regional trade agreements, export restrictions, food security, and governmental involvement in commercial activities.

Uphold Obligations in U.S. Trade Agreements

In addition to playing a leadership role in the WTO's rules-based system, in 2013 the United States will monitor and enforce commitments in our bilateral, plurilateral, and regional trade agreements. At the same time, we will engage directly with our trading partners to address issues of concern and uphold commitments in key areas such as protection of labor rights and the environment.

In 2013, the United States will continue to monitor bilateral softwood lumber trade with Canada to ensure full compliance with the United States-Canada Softwood Lumber Agreement (SLA). The SLA supports American workers throughout the U.S. timber supply chain by helping to provide a more predictable and fair environment for conducting international trade in softwood lumber. In 2012, the United States and Canada agreed to extend the Agreement through October 12, 2015.

The United States is working with the government of Peru in 2013 regarding the implementation of that country's environmental obligations in the United States-Peru Trade Promotion Agreement (PTPA), including the development of new regulations to further strengthen forest sector governance in Peru. In addition, the Governments of the United States and Peru will implement a five-point forest sector action plan agreed in early 2013. The action plan focuses on addressing underlying challenges regarding the sustainable management of bigleaf mahogany and Spanish cedar in Peru, which were identified through a rigorous review of information provided in a petition to the U.S. Government from an environmental organization. The action plan will support Peru's forestry sector reform efforts, further Peru's implementation of its obligations under the PTPA and deepen the two Governments' ongoing cooperation on forestry issues. Bigleaf mahogany and Spanish cedar are two species of timber protected under the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES). Building on the first ever labor rights enforcement case brought under a U.S. trade agreement (the Dominican Republic-Central America-United States Free Trade Agreement, or CAFTA-DR), the United States in 2013 will use every means available to ensure that the government of Guatemala addresses its apparent failure to enforce Guatemala's labor laws effectively. Similarly, the United States will work with the government of Bahrain to address labor rights concerns that were identified by a 2012 review under the United States-Bahrain Free Trade Agreement. We will also work with Jordan to address labor issues under the United States-Jordan Free Trade Agreement through an action plan with steps that Jordan will take to improve respect for internationally recognized labor rights. Whether through enforcement or engagement and dialogue, the Obama Administration is determined to protect the rights of workers in America and abroad, and to provide a level playing field for workers here at home.