2024 Trade Enforcement Priorities Report

Office of the United States Trade Representative

FOREWORD

In accordance with section 601 of the Trade Facilitation and Enforcement Act of 2015 (section 310 of the Trade Act of 1974), the U.S. Trade Representative reports to the Committee on Finance of the U.S. Senate and the Committee on Ways and Means of the U.S. House of Representatives on acts, policies, or practices of foreign governments identified as trade enforcement priorities based on the consultations with those committees and the criteria set forth in paragraph (2) of section 310(a). The Office of the United States Trade Representative (USTR) is responsible for the preparation of this report and gratefully acknowledges the contributions of USTR staff and interagency colleagues to the preparation and production of this report.

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Executive Summary

USTR is committed to strong trade enforcement of U.S. law and international agreements to further level the playing field and promote the interests of U.S. workers, manufacturers, farmers, ranchers, fishers, businesses, families, and underserved communities. Preserving U.S. rights to take actions necessary for our essential security is a top enforcement priority. Trade enforcement encompasses a broad range of activities including facility-specific rapid response labor mechanism actions under the United States-Mexico-Canada Agreement (USMCA), state-to-state dispute settlement, and section 301 investigations and actions. Trade enforcement also includes the monitoring of trade agreements, engagement in bilateral, plurilateral, multilateral, and regional fora (such as committees of the World Trade Organization (WTO)), and direct engagement with trading partners on key trade barriers.

USTR's enforcement actions are critical to advancing the President's worker-centered trade policy and ensuring that foreign policy and trade combat unfair economic practices, defend American jobs and business, and create broad-based economic prosperity. This report highlights USTR's continuing commitment to enforcement and presents USTR's 2024 trade enforcement priorities:

- ***Preserving U.S. National Security Rights.*** For over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in WTO dispute settlement, and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security. China and other WTO Members have chosen to pursue legal challenges to U.S. national security measures in the WTO. USTR has been clear – and will continue to be clear – that the United States will not cede decision-making over its essential security to WTO panels. The Biden Administration remains committed to preserving U.S. national security, including by protecting human rights and democracy across the globe. The U.S. Government has a responsibility to protect the security of its citizens, and, as a nation, we are responsible for our security commitments to allies and partners. Neither of these responsibilities can be abridged by the WTO inserting itself into issues of national security. The United States intends to continue raising this fundamental issue until necessary steps are taken to ensure our national security rights remain intact.

- ***Enforcement of the USMCA*.** Enforcement of the USMCA is essential to ensuring that Canada and Mexico fully implement the agreement and live up to their commitments. Our enforcement actions also ensure that the agreement benefits American workers, manufacturers, farmers, ranchers, fishers, businesses, families, and underserved communities. Six times in 2024, and 24 times overall, the United States has sought Mexico's review of apparent denials of fundamental labor rights under the USMCA's Rapid Response Labor Mechanism (RRM) to benefit workers, raising labor standards

across North America and driving a race to the top. To date, the Rapid Response Mechanism has resulted in 20 resolutions at specific facilities, directly benefited over 36,000 workers, and provided over $5 million in backpay and benefits. The United States has also advanced its monitoring and enforcement of the USMCA Environment Chapter, on matters including the prevention of illegal fishing, protection of the vaquita, and trafficking of totoaba fish. The United States also is continuing to employ the United States-Mexico Environment Cooperation and Customs Verification Agreement (ECCVA), which led to USTR's second request under the ECCVA with respect to wild-caught shrimp entering the United States. The United States twice challenged Canada's dairy tariff-rate quota allocation measures (TRQs), reflecting the Administration's commitment to ensuring that U.S. dairy producers receive the full benefits of the USMCA to market and sell U.S. products to Canadian consumers. The United States is actively challenging in dispute settlement Mexico's measures related to genetically engineered corn, which are not based on science- or risk-based principles, with a final panel report expected by the end of this year. Finally, the United States continues to engage with Mexico regarding its energy measures that undermine American companies and U.S.-produced energy in favor of Mexico's state-owned electrical utility.

- ***Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions*.** The United States has led and will continue to engage constructively in a Member-driven reform process that seeks fundamental reform of the WTO's dispute settlement system. Fundamental reform is needed to ensure a well-functioning WTO dispute settlement system that supports WTO Members in the resolution of their disputes in an efficient and transparent manner, and in doing so limits the needless complexity and interpretive overreach that has characterized dispute settlement. WTO dispute settlement cannot be a means to change the commitments and rules of the WTO agreements without the consent of all Members. Rather, the dispute settlement system should preserve the policy space in WTO rules for Members to address their critical societal interests and support rather than undermine the WTO's role as a forum for discussion and negotiation to help Members address new challenges. Most critically, fundamental reform must ensure that the WTO respects the essential security interests of WTO Members, including the United States. WTO dispute settlement cannot be a forum for debating and deciding on the essential security interests of Members. The United States is working towards a reformed system that respects the right of Members to determine what action is necessary to protect their essential security interests.

- ***Defense of U.S. Trade Remedies.*** USTR will continue to strongly defend U.S. trade remedies, including with respect to China's numerous challenges to U.S. antidumping, anti-subsidy, and safeguard actions that serve to defend U.S. workers and businesses from China's non-market economic policies and practices.

- ***Enforcement Supporting the Strategic Interests of the United States*.** Enforcement plays a critical role in promoting predictability and leveling the playing field in global

markets. USTR has intensified work to find mutually agreed solutions on outstanding WTO disputes, while maintaining the integrity of U.S. measures. This has resulted in the resolution of seven WTO disputes in 2023 and one WTO dispute in 2024, as well as the removal of certain retaliatory tariffs, which will restore and expand market opportunities for U.S. agricultural producers and manufacturers. USTR will prioritize enforcement efforts with respect to key strategic priorities of the United States, including supporting the goals of Executive Order 14017 by leading the interagency Supply Chain Trade Task Force and identifying opportunities to use trade tools and agreements to make our supply chains more resilient. USTR will also continue to pursue a range of enforcement efforts to address intellectual property (IP) protection and enforcement in other countries related to the trade in counterfeit goods; forced or pressured technology transfer (including government-sponsored cybertheft of IP) and preferences for indigenous IP[1]; inadequate protection of trade secrets, undisclosed information, patents, and geographical indications; and online and broadcast piracy. USTR will also continue engagement with WTO committees, which are important instruments supporting U.S. monitoring and enforcement of certain trade commitments undertaken by Members. To defend the rights of American workers, manufacturers, and businesses, and ensure that they can fairly compete on a level playing field, USTR will continue to address unjustified barriers stemming from technical regulations, standards, and conformity assessment procedures that discriminate against U.S. exports or do not otherwise comply with international commitments.

The priorities identified in this report reflect key areas of enforcement focus by USTR. The report does not attempt to catalog all trade enforcement priorities on which USTR is actively working. An inventory of trade barriers on which USTR and other agencies are currently working is contained in the 2024 National Trade Estimate Report on Foreign Trade Barriers, and other enforcement-related priorities and objectives are discussed in the 2024 Trade Policy Agenda and 2023 Annual Report of the President of the United States on the Trade Agreements Program. These reports are available on the USTR website at: www.ustr.gov.

[1] In certain countries, preferences or policies on "indigenous IP" or "indigenous innovation" refer to a top-down, state-directed approach to technology development, which can include explicit market share targets that are to be filled by producers using domestically owned or developed IP.

Enforcement of U.S. Rights Under the United States-Mexico-Canada Agreement

On July 1, 2020, the USMCA came into effect, containing significant improvements to worker protections, expanded market access, and improved dispute settlement procedures. USTR will not hesitate to bring enforcement actions against trading partners that fail to respect and protect the rights of workers, discriminate against American businesses, or deny our producers market access. To date, the Rapid Response Mechanism has directly benefited over 36,000 workers and provided over $5 million in backpay and benefits.

Labor Monitoring and Enforcement Under the USMCA

USTR is committed to putting workers at the center of trade policy by using the USMCA to help protect workers' rights. In this effort, USTR has pursued 24 actions under the USMCA's facility-specific Rapid Response Labor Mechanism (RRM). Though some cases are still ongoing, 20 have already resulted in either comprehensive remediation plans between the United States and Mexico or were successfully resolved during the RRM review process, eight of which have been in 2024 alone. Additionally, USTR, working with the Department of Labor (DOL), closely monitors implementation of Mexico's labor law reform and follows up on tips from the web-based hotline and information received from the five labor attachés posted in Mexico.

Facility-Specific Rapid Response Labor Mechanism Matters & Petitions

The USMCA contains a first-of-its-kind RRM that enables expedited enforcement of the right of freedom of association and collective bargaining in Mexico at particular facilities. The United States continues to fully utilize this mechanism to support these critical workers' rights and use trade to promote a "race to the top" in labor conditions.

Review of Alleged Denial of Workers' Rights at Draxton Facility in Guanajuato, Mexico

On May 31, 2021, USTR submitted a request to Mexico to review whether workers at a Draxton facility in Irapuato, Guanajuato, were being denied the right of free association and collective bargaining. USTR self-initiated this action after becoming aware of information indicating violations of workers' rights. The request resulted in a course of remediation agreed to by the United States and Mexico in July 2023. Actions taken by the company and Mexico pursuant to the course of remediation included reinstatement of and full backpay and benefits for a union leader dismissed for carrying out union activity; issuance of a company neutrality statement and guidelines governing the conduct of company personnel related to freedom of association and collective bargaining; and Government of Mexico and company trainings on both the company guidelines and workers' rights in Mexico. After the trainings held as part of the course of remediation, workers elected the independent union as their collective bargaining representative. As a result of these remediation measures, on April 9, 2024, the United States and Mexico announced the successful resolution of this matter.

Review of Alleged Denial of Workers' Rights at Goodyear in San Luis Potosí, Mexico

On April 20, 2023, *La Liga Sindical Obrera Mexicana* (LSOM), an independent Mexican union, filed a petition asserting ongoing denial of rights at the Goodyear tire manufacturing facility in

the city and state of San Luis Potosí. On May 22, 2023, USTR submitted a request that Mexico review whether workers at the facility were being denied the right of free association and collective bargaining with respect to several issues, including a failure to apply the sectoral collective bargaining agreement in the rubber manufacturing industry to workers at the facility and misinforming workers about the existence or application of the agreement to their employment. The Government of Mexico accepted the request and concluded that workers at the facility were being denied their right of freedom of association and collective bargaining. On July 19, 2023, the United States and Mexico announced a course of remediation to address the denial of rights at Goodyear. The end date established in the course of remediation was January 19, 2024.

On February 5, 2024, the United States and Mexico announced the successful resolution of this matter. The actions taken to address the matter included, among other things: (1) the Government of Mexico overseeing a free and fair vote at the facility that resulted in an independent union representing workers for the purposes of collective bargaining; (2) Goodyear paying 1,186 employees at the facility a total of $4.2 million in back wages and benefits owed under the sectoral collective bargaining agreement in the rubber industry; (3) the continued application of that agreement at the facility; (4) the employer's adoption of a neutrality statement and company guidelines on freedom of association rights and collective bargaining rights for workers; and (5) the Government of Mexico disseminating materials on the right to free association and collective bargaining.

Review of Alleged Denial of Workers' Rights at Industrias del Interior Garment Facility in Aguascalientes, Mexico

On May 12, 2023, *Frente Auténtico del Trabajo* (FAT), a Mexican labor organization, and the *Sindicato de Industrias del Interior*, a Mexican union, filed a petition concerning Industrias del Interior (INISA), a garment manufacturing facility in the state of Aguascalientes. The petition alleged that INISA is committing acts of employer interference by coercing workers to accept the company's proposed collective bargaining agreement revisions and intervening in the union's internal affairs. On June 12, 2023, USTR submitted a request that Mexico review whether workers at the facility are being denied the right of free association and collective bargaining. Mexico accepted the request and on July 27, 2023, concluded there was ongoing denial of the right to free association and collective bargaining at the facility. On August 9, 2023, the United States and Mexico announced a course of remediation to remediate the denial of rights. On December 11, 2023, the United States announced the successful resolution of the matter. Actions taken included:

- INISA paying certain benefit vouchers retroactively and increasing the value of those vouchers going forward;
- INISA adopting and posting a neutrality statement and company guidelines on freedom of association and collective bargaining, including a zero-tolerance policy for violations;
- INISA establishing a complaint mechanism for workers to anonymously report any violations of their rights and breaches of company guidelines on freedom of association and collective bargaining;

- INISA relocating the union's office and full-time union work employees to an area separate from the company's human resources department;
- The Government of Mexico delivering in-person trainings for company personnel on freedom of association and collective bargaining;
- The Government of Mexico distributing informational material at the facility regarding freedom of association and collective bargaining.

RRM Panel Dispute Regarding Alleged Denial of Workers' Rights at a Grupo México Mine in Zacatecas, Mexico

On May 15, 2023, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), the United Steel Workers (USW), and Los Mineros, a Mexican union, filed a petition concerning the San Martín mine, a lead, zinc, and copper mine owned and operated by the Grupo México conglomerate. On June 16, 2023, the United States requested that Mexico review whether workers at the facility are being denied the right of free association and collective bargaining, because Grupo México resumed operations at the San Martín mine regardless an ongoing strike and engaged in collective bargaining with a coalition of workers despite the fact that Los Mineros holds the right to represent workers for purposes of collective bargaining. Mexico accepted the request and, at the conclusion of its review, found no denial of rights to exist. The United States disagreed with this determination and, on August 22, 2023, requested the establishment of an RRM panel to verify the facility's compliance with Mexican labor laws and determine whether workers at the mine were being denied the right to freedom of association and collective bargaining. After receiving written submissions from the disputing parties, the panel conducted a verification on February 26 and 27, 2024, and held a hearing in Mexico City on February 28 and 29, 2024. The RRM panel issued its written determination, and on May 13, 2024, the parties made the determination public.

The panel found the mine is a covered facility for the purposes of the RRM. However, the panel found that the alleged denial of rights was not brought under Mexican labor laws necessary to fulfill Mexico's labor-related obligations within the meaning of the USMCA, because, as a matter of Mexican law, the events at issue would likely be subject to labor laws that predate Mexico's labor reform. Therefore, the panel found that it lacked jurisdiction to determine whether a denial of rights occurred at the facility. The panel acknowledged that the complex factual and legal history underlying this dispute was "highly unusual and unlikely to repeat itself." The United States disagrees with the panel's findings which effectively allow the rights of freedom of association and collective bargaining to continue to be violated.

Review of Alleged Denial of Workers' Rights at Teklas Automotive Facility in Aguascalientes, Mexico

On August 24, 2023, LSOM filed a petition alleging that Teklas Automotive, an auto parts manufacturer, threatened and dismissed workers in retaliation for undertaking union organizing activity. On September 25, 2023, the United States submitted a request that Mexico review whether workers at the Teklas Automotive facility were being denied the right to freedom of association and collective bargaining. Mexico agreed, and on November 9, 2023, concluded

there were ongoing denial of rights related to freedom of association and collective bargaining at the facility. As a result of the investigation, the company and Mexico took a series of steps to address the denial of rights, including reinstatement and full backpay for the workers terminated due to union activities, restructuring the human resources department by hiring a new head of human resources and a new in-house legal counsel specialized in union affairs, adopting and implementing a neutrality statement and company guidelines on freedom of association and collective bargaining, As a result of these remediation measures, on April 9, 2024, the United States announced the successful resolution of this RRM matter. Although the denial of rights raised in the request for review has been resolved, the United States continues to monitor progress at the facility and has received positive updates regarding negotiations for a collective bargaining agreement covering workers at the facility.

Review of Alleged Denial of Workers' Rights at Asiaway Automotive Components Mexico Facility in San Luis Potosí, Mexico

On September 20, 2023, LSOM and the International Lawyers Assisting Workers Network (ILAW Network) filed an RRM petition alleging that Asiaway Automotive Components Mexico was violating its workers' rights at a facility in San Luis Potosí, Mexico, including by unlawfully firing a worker for undertaking union organizing activity. After reviewing the allegations, on October 23, 2023, the United States requested Mexico's review of whether workers at the facility were being denied the right to freedom of association and collective bargaining, including through unlawful discrimination and by interfering in their workers' rights to freely choose their bargaining representative.

On February 16, 2024, the United States and Mexico announced the successful resolution of the RRM matter at the Asiaway Automotive Components Mexico facility. Mexico and the company took several steps to address violations of labor law, including reinstating and issuing backpay to a wrongly dismissed worker and correcting other employer interference in union activities.

Review of Alleged Denial of Workers' Rights at Tecnología Modificada Caterpillar Facility in Nuevo Laredo, Mexico

On September 25, 2023, *Sindicato Nacional Independiente de Trabajadores de Industrias y Servicios "Movimiento 20/32"* (SNITIS), a Mexican union, filed a petition alleging that a facility of Tecnología Modificada, a Caterpillar, Inc. subsidiary, engaged in interference in union activity, including dismissing a worker in retaliation for undertaking union organizing activity. On October 26, 2023, the United States requested Mexico's review of whether workers at the facility are being denied the right to freedom of association and collective bargaining. Mexico accepted the request for review and provided its report of review on December 8, 2023. During Mexico's review period, the company and the Government of Mexico took several actions to address the denial of rights. The company offered reinstatement and backpay to two unlawfully dismissed workers and issued and distributed a written neutrality statement and related guidelines in which it committed to respect freedom of association and collective bargaining rights. The Government of Mexico and company also trained all working employees on freedom of association and collective bargaining rights and responsibilities. Because the facility was on

strike, and most workers were not working, the company and Mexico committed to provide additional training for striking workers when they return to work. As a result of these remediation measures, on December 22, 2023, the United States announced the successful resolution of this RRM matter.

Review of Alleged Denial of Workers' Rights at Manufacturas VU Auto Parts Facility in Piedras Negras, Mexico

The deadline for remediation set forth in the course of remediation negotiated by the United States and Mexico in the previous reporting period was September 30, 2023. The RRM matter formally closed a month later, in October 2023, due to the facility's closure; nevertheless, the U.S. Government continued to monitor and support the former workers of the facility. This included the United States' engagement with federal and local labor authorities to support the former workers in their efforts to receive severance payments owed to them and to find employment at other facilities. The suspension of liquidation put in place against the facility as part of the RRM enforcement action remains in place.

Review of Alleged Denial of Workers' Rights at Autoliv Steering Wheels Mexico facility in Querétaro, Mexico

On October 19, 2023, the *Sindicato Nacional de Trabajadores de la Transformación, Construcción, Automotriz, Agropecuaria, Plásticos y de la Industria en General, del Comercio y Servicios Similares, Anexos y Conexos del Estado de Querétaro, "Ángel Castillo Reséndiz"* ("Transformación Sindical"), a Mexican union, filed a petition alleging that Autoliv Steering Wheels Mexico was violating workers' rights at its facility in Querétaro, by firing workers in retaliation for union activity, by making coercive statements that interfered with workers' rights, and by improperly denying access to the facility for union activity. After reviewing the petition, on November 20, 2023, the United States requested Mexico's review of whether workers at the facility were being denied the right to freedom of association and collective bargaining, including through unlawful firings, interference with union activity, and denying access to the facility for union-related activity.

On January 22, 2024, the United States and Mexico announced the successful resolution of the RRM petition. After the United States requested Mexico's review of the matter, Mexico and the company took several actions to address violations of labor law, including reinstating dismissed workers and correcting other employer interference in union activities. The employer reinstated and provided full backpay and benefits to three workers it had unjustly fired and paid severance to seven more workers who were unjustly dismissed but who chose not to return to the facility. The employer also posted and disseminated a neutrality statement and related guidelines at the facility and committed to safeguarding the right to freedom of association and collective bargaining with respect to its workers. The Government of Mexico also delivered trainings on freedom of association and collective bargaining at the facility for workers and company representatives.

Review of Alleged Denial of Workers' Rights at Fujikura Automotive Mexico Facility in Piedras Negras, Mexico

On November 13, 2023, the *Comité Fronterizo de Obreros*, a Mexican workers' rights organization, filed a petition alleging that Fujikura Automotive Mexico was refusing to hire workers because of prior union activity they had conducted at Manufacturas VU. On December 14, 2023, the United States requested Mexico's review of whether workers at the facility were being denied the right to freedom of association and collective bargaining, including through the company blacklisting or otherwise retaliating against them because of union activity.

On February 13, 2024, the United States and Mexico announced the successful resolution of the RRM matter at Fujikura Automotive Mexico. The company and the Government of Mexico undertook several remedial actions to ensure workers' rights are protected at the facility, including: (1) the posting and dissemination of a neutrality statement and related guidelines on the topic of freedom of association and collective bargaining rights at the facility; (2) training to all facility personnel on the neutrality statement and guidelines; (3) providing information and training to employees and management staff on workers' rights; and (4) training to union delegates who represent workers.

RRM Panel Dispute Regarding Remediation of a Denial of Workers' Rights at Atento Servicios Call Center in Hidalgo, Mexico

On December 18, 2023, the *Sindicato de Telefonistas de la República Mexican*a filed a petition alleging that Atento Servicios interfered in union activity, including by threatening and dismissing workers in retaliation for undertaking union organizing activity. On January 18, 2024, the United States submitted a request that Mexico review whether workers at the call center facility were being denied the right to freedom of association and collective bargaining. Mexico agreed to review, and at the conclusion of its 45-day review period, Mexico found a denial of rights had existed, but determined that Atento Servicios had taken the necessary actions to remediate the denial of rights during Mexico's review period. The United States disagrees with this determination, because Mexico has not addressed issues related to a vote held at the facility on December 6, 2023, and because workers had not received full remediation. Consequently, on April 16, 2024, the United States requested establishment of an RRM panel to review the situation. The RRM panel proceeding is ongoing.

Review of Alleged Denial of Workers' Rights at RV Fresh Foods in Michoacán, Mexico

On January 17, 2024, the *Sindicato Nacional de Trabajadores y Empleados de la Industria del Comercio, Alimenticia, Textil, Automotriz, Metalúrgica, Servicios y Distribución Generalísimo José María Morelos y Pavón*, a Mexican union, and the *Confederación Central Nacional* (COCENA), a Mexican union confederation, filed a petition alleging that RV Fresh Foods committed acts of employer interference in union activities, including by restricting the union's access to the facility and intervening in the process of electing union delegates. On February 16, 2024, the United States requested that Mexico review whether workers at the RV Fresh Facility were being denied the right to freedom of association and collective bargaining, including through actions of the petitioner union, COCENA. Mexico agreed to conduct review, and on

April 1, 2024, concluded that workers were being denied the right to freedom of association and collective bargaining by acts of interference by the employer, including through payment of a union support fee to the union. Mexico concluded that both the company and the union violated Mexican law and agreed to a course of remediation to ensure that both the company and the union comply with the law going forward. The United States is reviewing the implementation of the remediation plan.

Review of Alleged Denial of Workers' Rights at Servicios Industriales González Facility in Nuevo Leon, Mexico

On February 29, 2024, the *Sindicato Nacional de Trabajadores del Ramo de Transporte en General, La Construcción y sus Servicios* (SNTTYC), an independent union, filed a petition alleging denial of rights at a Servicios Industriales González (SIG) facility, which specializes in fabricating steel components. On April 1, 2024, the United States requested Mexico's review of whether workers at the facility are being denied the right to freedom of association and collective bargaining. Mexico accepted the request for review and provided its report of review on May 16, 2024. During Mexico's review period, the company and the Government of Mexico undertook several remedial actions to ensure workers' rights are protected at the facility. These actions included SIG paying nearly $20,000 in settlement to six dismissed workers, providing equivalent facility access to two unions seeking to represent workers at the facility, posting and disseminating a neutrality statement and related guidelines at the facility that affirm its commitment to safeguarding the right to freedom of association and collective bargaining, and delivering trainings to all facility personnel on its neutrality statement and guidelines. The Government of Mexico also delivered trainings on freedom of association and collective bargaining rights to workers and company representatives at all SIG facilities in the state of Nuevo Leon. As a result of these remediation measures, on May 30, 2024, the United States announced the successful resolution of this RRM matter.

Review of Alleged Denial of Workers' Rights at Tizapa Mine in Zacazonapan, Mexico

On March 4, 2024, the United States received a petition from the *Sindicato Nacional de Trabajadores Mineros, Metalúrgicos, Siderúrgicos y Similares de la República Mexicana* (Los Mineros), an independent Mexican union, alleging that the Tizapa mine committed acts of employer interference in union affairs. After the United States requested review of alleged denial of the right to freedom of association and collective bargaining at the Tizapa mine on April 3, 2024, Mexico accepted the request for review and provided its report of review on May 17, 2024. Mexico's report found the employer had interfered in union activity by favoring the incumbent union and had discriminated against the competing union. The Mexican Secretariat of Labor and Social Welfare mediated negotiations between the employer and Los Mineros, who prevailed in a representational vote against the incumbent union. Eleven workers allegedly dismissed due to their union activity were reinstated, most with full seniority and backpay. A bonus paid only to supporters of the incumbent union in November 2023 was paid to 249 workers who had not received it. In addition, the company issued a neutrality statement and guidelines governing the conduct of company personnel related to freedom of association and collective bargaining, and the company and the Government of Mexico conducted trainings on

both the company guidelines and workers' rights in Mexico. As a result of these and other remediation measures, on May 30, 2024, the United States announced the successful resolution of this RRM matter.

Review of Alleged Denial of Workers' Rights at Volkswagen de México Facility in Puebla, Mexico

On April 25, 2024, the United States received a petition from a group of former Volkswagen de México, S.A. de C.V. workers, alleging that the company dismissed these workers in retaliation for union activity. On May 28, 2024, the United States requested Mexico's review of whether workers at the facility are being denied the right to freedom of association and collective bargaining. Mexico accepted the request for review and provided its report of review on due July 12. The United States and Mexico are reviewing this matter.

Review of Alleged Denial of Workers' Rights at Industrias Tecnos in Morelos, Mexico

On May 23, 2024, *Sindicato Independiente de Trabajadores y Empleados, Transporte, Carga y Descarga, Exploración y Explotación de Minerales Básicos, Productos Metálicos, Similares y Conexos de la República Mexicana* (Sindicato Metálico), a Mexican union, filed a petition alleging a denial of rights at Industrias Tecnos, an ammunition manufacturing facility in the state of Morelos. The petition alleged that Industrias Tecnos is discriminating among workers based on their union sympathies. On June 24, USTR submitted a request that Mexico review whether workers at the facility were being denied the right to free association and collective bargaining as a result of interference in their union activities. Mexico accepted the request. The United States and Mexico are reviewing this matter.

Monitoring of Mexican Labor Reforms

USTR continues to monitor closely Mexico's implementation and enforcement of its new labor legislation to ensure that Mexico meets its obligations under the USMCA. Among other matters, USTR is monitoring:

- The process under which previously negotiated collective bargaining agreements are voted on by workers in Mexico. As USTR's actions demonstrate, USTR will take appropriate action to ensure that workers can exercise the right of free association and collective bargaining throughout this process.
- Allegations of violence against workers and labor organizations. USTR understands that workers and labor organizations must be able to exercise their labor rights in a climate that is free from violence, threats, and intimidation, and that governments must not fail to address violence or threats of violence against workers who exercise or attempt to exercise their labor rights.
- Mexico's creation and implementation of labor courts, union registration institutions, and conciliation centers to ensure Mexico's compliance with USMCA obligations and timelines.
- The process by which unions amend their bylaws to incorporate requirements of secret-ballot voting and gender equity for union officer elections.

Environment Monitoring and Enforcement Under the USMCA

The USMCA includes state-of-the-art provisions, including the most comprehensive set of environmental obligations of any U.S. trade agreement. The environmental commitments of the USMCA are fully enforceable through the agreement's dispute settlement procedures, affirming the Parties' recognition that a healthy environment is an integral element of sustainable development and of a robust liberalized trading relationship. USTR is fully committed to the effective monitoring and enforcement of the environmental obligations of the USMCA.

Since entry into force, the United States has taken broad and strategic measures that advance the USMCA Environment Chapter monitoring and enforcement. These measures include, *inter alia*, actions related to the protection of the vaquita and trafficking of totoaba fish; preventing and reducing marine litter; improving and promoting the conservation of priority marine species; and promoting sustainable forest management and the legal trade in timber, including through improved wood identification.

United States-Mexico Chapter 24 Environment Consultations

On February 10, 2022, USTR formally requested Environment Consultations with Mexico under USMCA Article 24.29.2 concerning Mexico's USMCA Environment Chapter obligations relating to the protection of the vaquita, the prevention of illegal fishing, and trafficking of totoaba fish. Since then, USTR has held a number of technical-level consultations with Mexico to enhance Mexico's enforcement of its fisheries-related environmental laws in the Upper Gulf of California and implementation of its USMCA environment commitments. In March 2023, USTR formally notified the Government of Mexico that, pursuant to USMCA Article 24.30.1, it was requesting consultations under the Environment Chapter at the Senior Representative (Assistant U.S. Trade Representative) level.

While Mexico has adopted environmental laws designed to prevent illegal fishing in the Upper Gulf of California, to prevent trafficking of protected species such as the totoaba fish, and to protect and conserve the vaquita, available evidence raises concerns that Mexico may not be meeting a number of its USMCA environment commitments. The vaquita is a critically endangered species of porpoise endemic to the Upper Gulf of California in Mexico. The 2024 survey of the species identified between 6 to 8 individuals. Even with such a small population, scientists maintain that the species continues to be biologically viable, if given the space to recover. Incidental bycatch from prohibited gillnets, primarily set to catch shrimp and totoaba fish, is the primary cause of vaquita mortality. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) prohibits international commercial trade in both the vaquita and totoaba fish. While the vaquita is not traded, there is a high demand for the swim bladder of the totoaba fish, which is traded illicitly.

The consultations are ongoing, and USTR will continue to work closely with Mexico to strengthen Mexico's fisheries enforcement in the Upper Gulf of California.

Work of the Interagency Environment Committee for Monitoring and Enforcement

USTR chairs the USMCA Interagency Environment Committee for Monitoring and Enforcement (IECME), which was established by Executive Order 13907. Since its creation, the IECME has served a central role in ensuring a whole-of-government approach to monitoring and enforcement of USMCA environmental obligations. The USMCA Implementation Act[2] also provides that the IECME may request that the Trade Representative request consultations[3] with respect to a USMCA Party, or request heads of Federal agencies to initiate monitoring or enforcement actions under specified domestic statutes[4] with regard to USMCA environmental obligations.

USTR has convened the IECME, and its informal subsidiary body and working groups, to ensure effective coordination and execution of monitoring and enforcement activities. Pursuant to its mandate, the IECME has regularly reviewed information concerning Mexico or Canada and has analyzed that information in light of their USMCA environmental obligations. This information has come from various sources, including through public submissions directly to the IECME and from the Commission for Environmental Cooperation (CEC) Submissions on Enforcement Matters (SEM) process, which was originally established under the former North American Agreement on Environmental Cooperation and is currently operating pursuant to the Environmental Cooperation Agreement and the USMCA Environment Chapter.

Public Participation and Submissions

The USMCA Environment Chapter provides for enhanced public participation, including through the SEM process, which allows persons of any USMCA Party to file a submission with the trilateral CEC Secretariat asserting that a Party is failing to effectively enforce its environmental laws.

Since the previous reporting period, three SEMs were filed.[5] Of the three, one remains open.[6] Two submissions were terminated by the CEC Secretariat for not meeting the criteria in Articles 24.27.2 and 24.27.3 of the USMCA.[7]

[2] United States-Mexico-Canada Agreement Implementation Act, P. L. No. 116-113 (2020), codified at 19 U.S.C. § 4501 *et seq*.
[3] *See* USMCA, Articles 24.29, 31.4, and 31.6.
[4] *See* the USMCA Implementation Act, section 814(2).
[5] The three SEMs that were filed during the reporting period were: (1) Vessel Pollution in Pacific Canada (23-007) (filed on November 2, 2023); (2) Time Ceramics (SEM 24-001) (filed on February 1, 2024); and (3) Cadereyta Refinery (SEM 24-002) (filed on February 5, 2024).
[6] On April 12, 2024, the CEC Secretariat received Canada's response to the assertions made in the Vessel Pollution in Pacific Canada (23-007) submission. On June 14, the Secretariat issued its determination that the submission warrants the preparation of a factual record under Article 24.28(1).
[7] Time Ceramics was terminated on June 5, 2024, and Cadereyta Refinery was terminated on June 6, 2024.

The IECME continues to collect and analyze information related to the issues raised in the submissions, including whether there is sufficient evidence to support a claim that Mexico or Canada is in breach of its environmental obligations under Chapter 24 of the USMCA.

Separate from, and parallel to, the SEM process, persons of a Party may submit information regarding a Party's implementation of the environment chapter directly to USTR, as the IECME Chair. Through its website, USTR has provided for direct public engagement and inquiries regarding implementation of the Environment Chapter, establishing a dedicated email address to receive such submissions.

In addition to providing the public an opportunity to submit information directly to the IECME, USTR provides updates on USMCA implementation to its cleared advisors through the Trade and Environment Policy Advisory Committee.

USMCA Environment Annual Report

Pursuant to section 816 of the USMCA Implementation Act, USTR prepared its annual report in consultation with the heads of IECME member agencies. The annual report discusses the implementation of subtitles A and B of title VIII of the Act, summarizes efforts of Canada and Mexico to implement the USMCA Environment Chapter since the publication of the last annual report on July 1, 2023, and describes additional efforts to be taken with respect to implementation of Canada's and Mexico's environmental obligations.

The annual report identified seven priority areas that USTR, along with other U.S. agencies, will continue to actively monitor, and collaborate with Mexico and Canada on, including: (1) protection and conservation of the vaquita and totoaba fish in the Gulf of California in Mexico; (2) illegal fishing in the Gulf of Mexico; (3) illegal wildlife trade; (4) deforestation in Mexico; (5) the Maya Train project in Mexico; (6) coal mining effluent in Canada; and (7) water pollution from oil sands extraction in Canada. USTR's monitoring and enforcement activities will also extend to issues outside of these priority areas.

The IECME, pursuant to the USMCA Implementation Act, has strengthened the United States' whole-of-government coordination of monitoring and enforcement of Mexico's and Canada's implementation of USMCA environmental obligations. USTR, as chair of the IECME, is committed to leveraging all relevant environmental and trade legal tools and policy resources to enhance bilateral and trilateral collaboration around the USMCA environmental commitments.

Environment Attachés

Per section 822 of the USMCA Implementation Act, three persons, one employee each from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration, may be detailed to USTR to serve as environment attachés to assist the IECME to monitor Mexico's compliance with its USMCA environmental obligations. Three environment attachés had been posted at the U.S. Embassy in Mexico City since November 2020, but two have since returned to positions at their respective home agencies.

The remaining attaché continues to engage with relevant U.S. Government agencies, officials from the Government of Mexico, and NGO stakeholders in the United States and Mexico. The attaché provides quarterly updates to the IECME on information gathering and monitoring efforts. The attaché monitors priority issue areas including, *inter alia*, efforts related to vaquita conservation and protection, combating illegal fishing and illegal totoaba fish trade, marine litter prevention and mitigation, fisheries management, forestry management and timber legality, air quality improvement, and climate change.

U.S.-Mexico Environment Cooperation and Customs Verification Agreement

The U.S.-Mexico ECCVA, negotiated alongside the USMCA and implemented under section 813 of the USMCA Implementation Act, is a separate and additional bilateral tool to facilitate cooperation between the United States and Mexico regarding specific shipments of fisheries, timber, and wildlife (including live) products. It allows parties to request information to verify whether an importer has provided accurate and adequate documentation demonstrating a shipment's legality.

In December 2022, USTR made its second request under the ECCVA with respect to the legality of wild-caught shrimp entering the United States, potentially in violation of import restrictions pursuant to the Marine Mammal Protection Act, as well as multiple U.S. customs requirements. The United States has requested documents from Mexico, including waybills, landing reports, and other available export documentation, to ensure shipments entered the United States according to U.S. law. While Mexico has provided some relevant documentation, the documents provided do not align with available data on fishing boat locations in the Upper Gulf of California. As a result, Customs and Border Protection (CBP) has initiated additional enforcement actions related to the shipments. USTR will continue to monitor this issue and consider other potential uses of the ECCVA.

Dispute Settlement Related to Other USMCA Commitments

Canada – Dairy TRQ Allocation Measures II

On May 25, 2022, the United States requested consultations under Chapter 31 (Dispute Settlement) of the USMCA for the second time regarding Canada's dairy TRQ allocation measures, specifically relating to the ineligibility of certain types of importers to apply for USMCA dairy TRQ allocations, the imposition of a 12-month activity requirement for TRQ allocation applicants and recipients, and the partial allocation of the calendar year 2022 dairy TRQs. The consultation request followed a successful U.S. challenge of Canada's dairy TRQ allocation measures (Dairy I).[8] The USMCA panel in Dairy I agreed with the United States that

[8] *See United States Prevails in USMCA Dispute on Canadian Dairy Restrictions*, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/january/united-states-prevails-usmca-dispute-canadian-dairy-restrictions (published Jan. 4, 2022).

Canada's use of "processor pools" was inconsistent with Article 3.A.2.11(b) of the USMCA.[9] Canada determined that, in response to the adverse findings of that panel, it would only eliminate the "processor pools" for its dairy TRQ allocations, but Canada otherwise did not make changes to the allocation of its dairy TRQs that the United States sought. Consultations were held on June 9, 2022, but the Parties failed to resolve the matter.

On December 20, 2022, the United States requested a new round of consultations with Canada. After initiating consultations with Canada in May 2022, the United States identified additional aspects of Canada's measures that appeared to be inconsistent with Canada's obligations under the USMCA. With the new request, the United States expanded its challenge of Canada's dairy TRQ allocation measures to include Canada's use of a market-share approach for determining TRQ allocations and Canada's return and reallocation mechanism for its dairy TRQs. Canada applies different criteria for calculating the market share of different segments of applicants, and Canada fails to allow importers the opportunity to fully utilize TRQ quantities. The United States also continued to challenge Canada's dairy TRQ allocation measures that impose new conditions on the allocation and use of the TRQs, and that prohibit eligible applicants, including retailers, food service operators, and other types of importers, from accessing TRQ allocations. The United States considers that, through these measures, Canada undermines the market access that it agreed to provide in the USMCA. Consultations were held on January 17, 2023, but again failed to resolve the matter.

On January 31, 2023, the United States requested the establishment of a panel to examine U.S. concerns. The panel hearing was held in July 2023 in Ottawa, Canada. The panel issued its final report on November 10, 2023.[10]

In the report, the panel found that Canada's measures are not inconsistent with the USMCA provisions cited by the United States. The panel split on the U.S. claims concerning Canada's exclusion of retailers, food service operators, and other entities from eligibility and its historical market share approach to allocate Canada's USMCA dairy TRQs. A dissenting panelist agreed with the United States that by excluding retailers and others, Canada was breaching its commitment to make its dairy TRQs available to all eligible applicants in the food service sector.

The United States is continuing to work to address this issue and will not hesitate to use all available tools to enforce our trade agreements and ensure that the U.S. dairy sector receives the full benefits of the USMCA.

Mexico – Measures Concerning Genetically Engineered (GE) Corn

On August 17, 2023, the United States established a panel under the USMCA Dispute Settlement Chapter to address certain Mexican measures concerning GE corn. The United States is challenging measures reflected in Mexico's presidential decree of February 13, 2023,

[9] *See* USMCA Canada Dairy TRQ Allocation Measures (2021) Final Panel Report, https://ustr.gov/sites/default/files/enforcement/USMCA/Canada%20Dairy%20TRQ%20Final%20Panel%20Report.pdf.

[10] *See* USMCA Canada Dairy TRQ Allocation Measures (2023) Final Panel Report, https://ustr.gov/sites/default/files/Final%20Report%20of%20the%20Panel%20as%20issued.pdf.

specifically the ban on use of GE corn in dough and tortillas, and the instruction to Government of Mexico agencies to gradually substitute—*i.e.*, restrict and ultimately ban—the use of GE corn in all products for human consumption and for animal feed. The United States is challenging these measures, because they are not predicated on science- or risk-based principles, thereby contravening the Sanitary and Phytosanitary Measures Chapter of the USMCA, and function as USMCA-inconsistent restrictions on the importation of goods under the Market Access Chapter. Canada is participating in the dispute as a third Party.

In June 2024, the panel held a hearing with the Parties in Mexico City. A final panel report is expected by the end of this year.

Mexico – Measures Related to Energy

On July 20, 2022, the United States requested consultations with Mexico under the Dispute Settlement Chapter of the USMCA. The consultations relate to certain measures by Mexico that undermine American companies and U.S.-produced energy in favor of Mexico's state-owned electrical utility, the Comisión Federal de Electricidad (CFE), and the state-owned oil and gas company Petróleos Mexicanos (PEMEX). Specifically, the United States is challenging a 2021 amendment to Mexico's Electric Power Industry Law that prioritizes CFE-produced electricity over electricity generated by all private competitors; Mexico's inaction, delays, denials, and revocations of private companies' abilities to operate in Mexico's energy sector; a December 2019 regulation granting only PEMEX an extension to comply with the maximum sulfur content requirements under Mexico's applicable automotive diesel fuel standard; and a June 2022 action that advantages PEMEX, CFE, and their products in the use of Mexico's natural gas transportation network. These measures appear to be inconsistent with several of Mexico's USMCA obligations, including under the Market Access, Investment, and State-Owned Enterprises Chapters.

The United States is continuing to engage with Mexico to address the concerns set out in the U.S. consultations request, and remains in close conversation with U.S. companies about this matter. It remains the goal of the United States to seek a solution with Mexico that addresses the United States' serious concerns.

United States – Automotive Rules of Origin

On August 20, 2021, Mexico formally requested dispute settlement consultations with the United States over the interpretation and application of certain rules of origin provisions for autos under the USMCA. On August 26, 2021, Canada notified its intent to join the consultations. Pursuant to Article 31.6 of the USMCA, Mexico requested and established a dispute settlement panel on January 6, 2022. Canada joined the dispute as a co-complainant on January 13, 2022.

The U.S. position is that the USMCA core parts rules of origin requirement for autos, comprised of major, high-value auto parts like engines, advanced batteries, and transmissions, and its calculation methodology are distinct from the overall vehicle regional value content (RVC) calculation, constituting two separate requirements. Mexico and Canada, with support from certain auto producers, interpret the USMCA to allow the total value of the core parts, including

the total value of non-originating material used in those parts that are individually non-originating, to carry over into the calculation of the RVC for the vehicle itself as if 100 percent of those materials were originating.

On January 11, 2023, the USMCA parties made public the report of the panel in the dispute. In the final report, the panel found against the United States. As required under the USMCA, the Parties have consulted regarding a potential resolution to the dispute but have yet to reach an agreement.

Section 301 Investigations

Section 301 of the Trade Act of 1974, as amended, may be used to enforce U.S. rights under bilateral and multilateral trade agreements or to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce.

China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance

On March 12, 2024, five labor unions[11] filed a section 301 petition regarding the acts, policies, and practices of China to dominate the maritime, logistics, and shipbuilding sector.[12] The petition was filed pursuant to section 302(a)(1) of the Trade Act of 1974, as amended (Trade Act) (19 U.S.C. 2412(a)(1)), requesting action pursuant to section 301(b) (19 U.S.C. 2411(b)). Petitioners allege that China targets the maritime, logistics, and shipbuilding sector for dominance and engages in a wide range of unreasonable or discriminatory acts, policies, and practices that provide unfair advantages across maritime industries, such as shipbuilding, shipping, and maritime equipment, including:

- Implementing industrial planning and policies that are designed to unfairly capture market share, distort global markets, and advantage Chinese enterprises;
- Directing mergers and anticompetitive activities;
- Providing non-market advantages to Chinese firms to dominate key upstream inputs and technologies;
- Providing advanced financing mechanisms advantaging Chinese industry;
- Creating a Chinese network of upstream suppliers, foreign ports and terminals, shippers, and equipment and logistics software that allow advantageous use of information;
- Tolerating intellectual property theft and industrial espionage; and

[11] The five petitioners are the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union AFL–CIO CLC (USW); the International Brotherhood of Electrical Workers (IBEW); the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL–CIO/CLC (IBB); the International Association of Machinists and Aerospace Workers (IAM); and the Maritime Trades Department of the AFL–CIO (MTD).

[12] For additional information, the full text of the petition and accompanying exhibits are available at: https://ustr.gov/issue-areas/enforcement/section301-investigations/section-301-petition-chinamaritime-logistics-and-shipbuilding-sector.

- Controlling shipping freight rates and capacity allocations.

The petitioners also aver that China threatens to discriminate against U.S. commerce and disrupt supply chains.

Petitioners allege that China's acts, policies, and practices burden or restrict U.S. commerce by:

- Dramatically increasing China's shipbuilding excess capacity and global market share, contributing to declines in U.S. shipbuilding capacity, production, and market share;
- Artificially depressing prices, which makes it more difficult for U.S. companies to compete for sales;
- Impeding U.S. investment, production, and employment;
- Reducing the number of U.S.- produced ships in the domestic and global merchant fleets; and
- Providing unfair advantages and preferences that burden or restrict trade in inputs, and burden or restrict trade opportunities for upstream inputs and downstream industries.

In addition, the petitioners assert that China threatens to undermine U.S. national and economic security.

Pursuant to section 302(a)(2) of the Trade Act, the U.S. Trade Representative reviewed the allegations in the petition, and after receiving the advice of the Section 301 Committee, the U.S. Trade Representative determined on April 17, 2024, to initiate an investigation regarding the issues raised in the petition. A public hearing was held on May 29, 2024. The public was invited to provide comments and post-hearing rebuttal comments through June 5, 2024. The investigation is ongoing.

China's Forced Technology Transfer-Related Policies and Practices

On August 18, 2017, USTR initiated an investigation into certain acts, policies, and practices of China related to technology transfer, intellectual property, and innovation. On March 22, 2018, USTR issued a detailed report and determined that the acts, policies, and practices of China under investigation are unreasonable or discriminatory and burden or restrict U.S. commerce, and are thus actionable under section 301(b).

In particular, USTR determined that China had adopted actionable policies and practices: (1) requiring or pressuring U.S. companies to transfer technology to Chinese entities through joint venture requirements and other foreign ownership restrictions, administrative reviews, and licensing procedures; (2) using its technology regulations to force U.S. companies to license their technologies on non-market terms that favor Chinese recipients; (3) generating technology transfer from U.S. companies by directing or facilitating systematic investment in, and acquisition of, these U.S. companies and assets; and (4) stealing sensitive commercial information and trade secrets of U.S. companies through unauthorized intrusions into their computer networks.

On November 20, 2018, USTR issued another detailed report, explaining that China had not fundamentally altered the policies and practices that were the subject of the March 2018 report.

With respect to the second category of acts, policies, and practices (involving technology licensing regulations), the U.S. Trade Representative decided that relevant U.S. concerns could be appropriately addressed through recourse to WTO dispute settlement.

Lists 1 and 2

With respect to the three other categories of acts, policies, and practices listed above, the U.S. Trade Representative, at the direction of the President, determined to impose an additional duty on certain products of China. The additional duties were imposed in two tranches, following public comment and hearings. In July 2018, an additional 25 percent duty was imposed on the first tranche, known as List 1, which covered 818 tariff subheadings with an approximate annual trade value of $34 billion. Subsequently in August 2018, an additional 25 percent duty was imposed on the second tranche, known as List 2, which covered 279 tariff subheadings with an approximate annual trade value of $16 billion.

List 3

In September 2018, the U.S. Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional duties on products of China classified under 5,733 tariff subheadings with an approximate annual trade value of $200 billion. The rate of the additional duty on these List 3 products was initially 10 percent ad valorem and was later increased to 25 percent ad valorem in May 2019, following public comment and hearing.

List 4

In August 2019, the U.S. Trade Representative, at the direction of the President, determined to modify the prior action in the investigation by imposing additional 10 percent ad valorem duties on products of China classified under approximately 3,805 tariff subheadings with an approximate annual trade value of $300 billion. The tariff subheadings subject to the 10 percent additional duties were separated into two lists with different effective dates: September 1, 2019, for the list in Annex A, known as List 4A, and December 15, 2019, for the list in Annex C, known as List 4B. Subsequently, at the direction of the President, the U.S. Trade Representative determined to increase the rate of the additional duties for products covered by List 4A from 10 percent to 15 percent, effective September 1, 2019. The rate of the additional duties was subsequently reduced to 7.5 percent. Effective December 15, 2019, List 4B was suspended indefinitely.

Product Exclusions

For each of the four lists (List 1-List 4A), USTR established processes by which stakeholders could request that particular products classified within a covered tariff subheading be excluded from the additional duties. Under these processes, USTR granted 2,217 exclusions and 549 exclusions were subsequently extended. Most of these exclusions expired by December 31, 2020, with the remainder expiring in early 2021. In March 2022, following a public comment process, USTR reinstated 352 of the 549 previously extended exclusions through the end of 2022. On December 21, 2022, USTR extended the reinstated exclusions for an additional nine months, through September 30, 2023.

In 2020, USTR granted 99 exclusions for certain medical care products to address COVID. These exclusions were subsequently extended and scheduled to expire November 30, 2021. Following public comment processes, 81 of the COVID exclusions were ultimately extended to May 31, 2023, and 77 of the COVID exclusions were further extended through September 30, 2023.

To allow for consideration under the Four-Year Review (*see below*), on September 11, 2023, USTR further extended all remaining exclusions through December 31, 2023.

In light of public comments submitted in the Four-Year Review, on December 29, 2023, USTR invited public comments on whether to further extend any of the remaining exclusions, and announced an interim extension of the exclusions through May 31, 2024. Subsequently, and prior to the expiration of the interim extension, USTR announced a determination to extend all remaining exclusions through June 14, 2024, in order to provide a transition period for expiring exclusions, and to extend 164 exclusions through May 31, 2025.

Four-Year Review

In May 2022, following requests from domestic industries which benefit from the tariff actions, the Trade Representative commenced the statutory Four-Year Review of the actions taken. The statute directs that the Four-Year Review include a consideration of: (1) the effectiveness of the action in achieving the objectives of the investigation; (2) other actions that could be taken; and (3) the effects of the action on the U.S. economy, including consumers. To aid in this review, USTR opened an electronic portal to receive public comments on a number of issues including those directed by the statute, as well as views on the impact of the actions on U.S. workers, U.S. small businesses, U.S. manufacturing, critical supply chains, U.S. technological leadership, and possible tariff inversions.

On May 14, 2024, USTR released its report on the findings of the Four-Year Review. The report concludes that:

- Section 301 actions have been effective in encouraging China to take steps toward eliminating some of its technology transfer-related acts, policies, and practices and have

reduced some of the exposure of U.S. persons and businesses to these technology transfer-related acts, policies, and practices.

- China has not eliminated many of its technology transfer-related acts, policies, and practices, which continue to impose a burden or restriction on U.S. commerce. Instead of pursuing fundamental reform, China has persisted, and in some cases become aggressive, including through cyber intrusions and cybertheft, in its attempts to acquire and absorb foreign technology, which further burden or restrict U.S. commerce.

- Economic analyses generally find that tariffs have had small negative effects on U.S. aggregate economic welfare, positive impacts on U.S. production in the 10 sectors most directly affected by the tariffs, and minimal impacts on economy-wide prices and employment.

- Negative effects on the United States are particularly associated with retaliatory tariffs that China has applied to U.S. exports.

- Critically, these analyses examine the tariff actions as isolated policy measures without reference to the policy landscape that may be reinforcing or undermining the effects of the tariffs.

- Economic analyses, including the principal U.S. Government analysis published by the U.S. International Trade Commission, generally find that the section 301 tariffs have contributed to reducing U.S. imports of goods from China and increasing imports from alternate sources, including U.S. allies and partners, thereby potentially supporting U.S. supply chain diversification and resilience.

Also on May 14, 2024, USTR announced that, at the specific direction of the President, USTR would be proposing modifications to the tariff actions to add or increase tariffs on certain products of China in strategic sectors, and the establishment of an exclusion process for machinery used in domestic manufacturing with the prioritization of exclusions for certain solar manufacturing equipment. On May 28, USTR issued a notice establishing a 30-day docket to receive public comment on the proposals. USTR, in consultation with the Section 301 Committee, will evaluate the comments, and final modifications to the tariff actions will be announced in the Federal Register.

U.S.-China Economic and Trade Agreement

The United States and China signed the U.S.-China Economic and Trade Agreement on January 15, 2020 (the "Phase One Agreement"), which created binding commitments to address China's technology transfer regime. The Phase One Agreement entered into force on February 14, 2020. The Technology Transfer chapter addresses some of the unfair non-market practices covered in the section 301 investigation. In the Agreement, China commits not to coerce technology transfer. The commitment applies to both written measures and informal acts and practices of

agencies and officials that may not be written into official policy. USTR is vigilantly monitoring China's progress in implementing the commitments under the Phase One Agreement.

Vietnam's Acts, Policies, and Practices Related to Currency Valuation

Policies of U.S. trading partners that result in the undervaluation of their currencies are an important area of concern. Interventions in the foreign exchange (FX) market to maintain an undervalued currency make it harder for U.S.-based producers to export, and make imports artificially cheaper. Addressing this type of problem is an important element of the Administration's worker-centered trade policy.

On October 2, 2020, the U.S. Trade Representative initiated an investigation regarding whether Vietnam's acts, policies, and practices related to the valuation of its currency are unreasonable or discriminatory and burden or restrict United States commerce. On January 15, 2021, the U.S. Trade Representative determined that Vietnam's acts, policies, and practices related to currency valuation, including excessive foreign exchange market interventions and other related actions, taken in their totality, are unreasonable and burden or restrict U.S. commerce, and thus are actionable under section 301. The U.S. Trade Representative made this determination in consultation with the U.S. Department of the Treasury, based on the information obtained during the investigation, and taking account of public comments and the advice of the Section 301 Committee and advisory committees. The determination was accompanied by a detailed public report.

The report evaluated the specific facts and circumstances examined in the investigation in light of widely-accepted norms, as evidenced in international agreements and U.S. law, that exchange rate policy should not be undertaken to gain an unfair competitive advantage in international trade, should not artificially enhance a country's exports and restrict its imports in ways that do not reflect the underlying competitiveness, should not prevent exchange rates from reflecting underlying economic and financial conditions, and should not prevent balance of payments adjustment.

On July 19, 2021, Treasury and the State Bank of Vietnam (SBV) issued a joint statement that they had reached an agreement to address Treasury's concerns about Vietnam's currency practices as described in Treasury's Report to Congress on the Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States. On July 23, 2021, the U.S. Trade Representative found that the Treasury-SBV agreement and the measures of Vietnam called for in the agreement provide a satisfactory resolution of the matter subject to investigation and that no action under section 301 was appropriate at that time. Treasury and USTR continue to monitor Vietnam's implementation of its commitments on exchange rate policy. If USTR, in consultation with Treasury, considers that implementation is not satisfactory, the U.S. Trade Representative will consider further action under section 301.

Vietnam's Acts, Policies, and Practices Related to the Import and Use of Illegal Timber

The import and use of illegally harvested or traded timber is detrimental to the environment, undermines an equitable trading system, and disadvantages workers and firms who rely on legal timber. Addressing illegal timber concerns is an important element of ensuring a level playing field for U.S. workers and firms.

Vietnam is a leading and rapidly growing producer and exporter of wood products, such as plywood and wooden furniture. The United States is Vietnam's largest export market, with 2019 imports of $3.7 billion in wooden furniture from Vietnam alone. On October 2, 2020, the U.S. Trade Representative initiated a section 301 investigation concerning Vietnam's acts, policies, and practices related to the alleged import and use of timber that is illegally harvested or traded. The notice of initiation explained that Vietnam relies on imports of timber harvested in other countries to supply the timber inputs needed for its wood products manufacturing sector, and evidence suggests that a significant portion of that imported timber was illegally harvested or traded. This was the first section 301 investigation to address environmental concerns.

On October 1, 2021, the United States and Vietnam signed an agreement that addresses U.S concerns in the timber investigation. The agreement secures commitments that will help keep illegally harvested or traded timber out of the supply chain and protect the environment and natural resources. USTR continues to monitor Vietnam's implementation of the agreement. The United States and Vietnam have convened four meetings of the Timber Working Group, which was established under the agreement to facilitate coordination between the parties and oversee the implementation of the agreement. The group convened most recently in May 2024. These meetings have established a strong basis for continued implementation of the agreement. If the U.S. Trade Representative determines that Vietnam is not satisfactorily implementing the agreement or associated measures, then the U.S. Trade Representative will consider further action under section 301.

Digital Services Taxes

On July 10, 2019, USTR initiated an investigation of France's Digital Services Tax (DST). In December 2019, USTR released a detailed report and determined that France's DST was actionable under section 301, that is it was unreasonable or discriminatory and burdens or restricts U.S. commerce. In January 2020, France agreed to postpone the collection of its DST. In July 2020, USTR determined to take action in the form of tariffs in this investigation and deferred imposition of the tariffs for up to six months. In January 2021, USTR determined to further suspend the action in the French investigation to allow USTR to coordinate actions in all DST investigations.

On June 2, 2020, USTR initiated investigations into DSTs adopted or under consideration in ten jurisdictions: Austria, Brazil, the Czech Republic, the European Union (EU), India, Indonesia, Italy, Spain, Turkey, and the United Kingdom.

In January 2021, following comprehensive investigations, USTR determined that the DSTs adopted by Austria, India, Italy, Spain, Turkey, and the United Kingdom discriminated against U.S. digital companies, were inconsistent with principles of international taxation, and burdened or restricted U.S. commerce.

In March 2021, USTR announced proposed trade actions in these six investigations, and undertook a public notice and comment process, during which it collected hundreds of public comments and held seven public hearings. At that time, USTR also terminated the remaining four investigations (of Brazil, the Czech Republic, the EU, and Indonesia) because those jurisdictions had not implemented the DSTs under consideration.

On June 2, 2021, USTR announced tariffs on certain goods from Austria, India, Italy, Spain, Turkey, and the United Kingdom, and immediately suspended the imposition of those tariffs while multilateral negotiations on international taxation at the Organisation for Economic Co-operation and Development (OECD) and in the G20 continue.

On October 8, 2021, the United States and 135 other jurisdictions participating in the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting reached a political agreement on a two-pillar solution to address tax challenges arising from the digitalization of the world economy.

On October 21, 2021, Treasury issued a joint statement with Austria, France, Italy, Spain, and the United Kingdom on a transitional approach to those countries' DSTs prior to entry into force of Pillar 1 (concerning the reallocation of certain taxing rights). The joint statement reflects a political agreement that DST liabilities accrued during the transitional period will be creditable in defined circumstances against future taxes due under Pillar 1. Based on these countries' commitment to remove their DSTs pursuant to Pillar 1 and on their political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of the DSTs in Austria, France, Italy, Spain, and the United Kingdom. In coordination with Treasury, USTR is continuing to monitor the progress of the OECD/G20 negotiations and the relevant measures.

On November 22, 2021, Treasury issued a joint statement with Turkey regarding a transitional approach to Turkey's Digital Service Tax prior to entry into force of Pillar 1. The joint statement reflects a political agreement that DST liabilities accrued during the transitional period will be creditable in defined circumstances against future taxes due under Pillar 1. Based on the commitment of Turkey to remove its DST pursuant to Pillar 1 and on Turkey's political agreement to the transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of Turkey's DST. In coordination with Treasury, USTR is continuing to monitor the progress of the OECD/G20 negotiations and the relevant measures.

On November 24, 2021, India and the United States issued statements describing a transitional approach to India's DST prior to entry into force of Pillar 1. These statements reflect a political agreement that, in defined circumstances, the DST liability that U.S. companies accrue in India

during the interim period will be creditable against future taxes accrued under Pillar 1 of the OECD Agreement. Based on the commitment of India to remove its DST pursuant to Pillar 1 and on India's political agreement to this transitional approach prior to Pillar 1's entry into force, the U.S. Trade Representative determined to terminate the section 301 action taken in the investigation of India's DST. In coordination with Treasury, USTR is continuing to monitor the progress of the OECD/G20 negotiations and the relevant measures.

On June 28, 2024, Canada brought into force a DST that raises serious concerns of unfair discrimination against U.S. businesses. USTR is assessing, and is open to using, all available tools that could result in meaningful progress toward addressing unilateral, discriminatory DSTs.

Pursuit of Fundamental Reform at the WTO and Enforcement of U.S. Rights in Ongoing Dispute Settlement Actions

The United States will continue to seek fundamental reform of the WTO's dispute settlement system and maintain U.S. leadership through constructive engagement in a Member-driven reform process. The United States will also work to defend U.S. interests in ongoing dispute settlement actions.

Fundamental Reform of WTO Dispute Settlement

The United States is determined to achieve fundamental reform of dispute settlement at the WTO. Fundamental reform is needed to ensure a well-functioning WTO dispute settlement system that supports WTO Members in the resolution of their disputes in an efficient and transparent manner, and in doing so limits the needless complexity and interpretive overreach that has characterized dispute settlement in recent years. To work towards the necessary reform, the United States has developed and pursued an interest-based, inclusive process through which all WTO Members can contribute to durable and lasting reform. The U.S.-led informal discussions, which were guided by an interest-based approach, reflected a significant departure from the stale conversations of past years.

The United States continued to build on that work by engaging in the facilitator-led informal process. The United States shared a number of ideas on dispute settlement reform in the informal discussions, with an open mind to different ways of achieving the interests that we and other Members have identified. The informal process produced a partial consolidated text that reflected efforts to make dispute settlement more efficient, transparent, and focused on assisting parties in the resolution of their disputes. At the WTO's Thirteenth Ministerial Conference, WTO Ministers recognized the progress made by Members as a "valuable contribution" to the

ongoing reform efforts. Seeking to build on this progress, the United States continues to engage with Members on all aspects of reform, including the outstanding issue of appeal/review.[13]

Among the objectives for a reformed system, the United States has been clear that the dispute settlement system should preserve the policy space in WTO rules for Members to address their critical societal interests. In the past, we have seen WTO dispute settlement adjudicators interpret commitments and rules in ways that undermine core values, such as the ability of Members to protect their workers and businesses from non-market economic distortions, to promote democracy and human rights, or to protect human health or the environment. The United States seeks a reformed system that enables rather than undermines Members' ability to promote and defend their values so that the trading system is a force for good. To that end, the United States will continue to work to address the erroneous interpretations developed by panels and the Appellate Body that departed from the text as agreed and understood by WTO Members.

WTO commitments and rules are agreed by Members and intended to be mutually beneficial. Those commitments and rules derive legitimacy from Members' agreement, and their understanding of what they have agreed. At the same time, WTO dispute settlement cannot be a means to change the commitments and rules of the WTO agreements without the consent of all Members. Thus, any reformed system must respect the rules, including the policy space left to Members, as agreed by Members.

Most critically, fundamental reform must ensure that the WTO respects the essential security interests of WTO Members, including the United States. WTO dispute settlement cannot be a forum for debating and deciding on the essential security interests of Members. The United States is working towards a reformed system that respects the right of Members to determine what action is necessary to protect their essential security interests.

For over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in WTO dispute settlement, and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security. China and other WTO Members have recently chosen to pursue legal challenges to U.S. national security measures in the WTO. USTR has been clear – and will continue to be clear – that the United States will not cede decision-making over its essential security to WTO panels.

The Biden Administration remains committed to preserving U.S. national security, including by protecting human rights and democracy across the globe. The U.S. Government has a responsibility to protect the security of its citizens and, as a nation, we are responsible for our security commitments to allies and partners. Neither of these responsibilities can be abridged by the WTO inserting itself into issues of national security. The United States intends to continue

[13] *See Remarks by Ambassador Katherine Tai at the Working Session on Dispute Settlement Reform at the Thirteenth Ministerial of the WTO* (February 28, 2024), available at https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2024/february/remarks-ambassador-katherine-tai-working-session-dispute-settlement-reform-thirteenth-ministerial.

raising this fundamental issue until necessary steps are taken to ensure our national security rights remain intact.

Continued Enforcement Against Trade Barriers

USTR has been actively engaged in numerous dispute settlement actions, including important offensive actions related to agricultural market access. USTR will continue to prioritize the elimination of trade barriers imposed by foreign governments to the detriment of U.S. workers and innovators, manufacturers, farmers, ranchers, fishers, and underserved communities. Such barriers include import licensing restrictions, non-science-based sanitary and phytosanitary measures, and other import restrictions affecting U.S. products, including food and agricultural products. Foreign governments also continue to provide both domestic and export subsidies to unfairly benefit their products and disadvantage U.S. exports and to use lack of transparency and procedural fairness as a means to protect home markets, such as in antidumping and countervailing duty investigations. USTR also will continue to monitor and enforce foreign export restrictions and discriminatory content requirements that reduce U.S. export opportunities.

European Communities and Certain Member States – Measures Affecting Trade in Large Civil Aircraft (Second Complaint) (Recourse to Article 21.5 of the Dispute Settlement Understanding (DSU)) (DS316)

The United States has entered into cooperative frameworks with the EU and the UK to address concerns and enhance cooperation following successful challenges to the massive subsidies to Airbus. In 2016 and 2018, compliance panel and appellate reports confirmed that the EU and four Member States failed to comply with the earlier WTO recommendation finding launch aid for twin-aisle and very large aircraft programs inconsistent with their WTO obligations.

In October 2019, the WTO arbitrator found that annual countermeasures of $7.5 billion were commensurate with the adverse effects to the United States from the EU launch aid. The arbitrator calculated this amount based on the WTO's non-compliance findings of significant lost sales of Boeing large civil aircraft and exports of large aircraft being impeded to the EU, Australia, China, Korea, Singapore, and United Arab Emirates markets.

On April 12, 2019, the United States initiated an investigation under section 301 of the Trade Act of 1974 to enforce U.S. rights under the WTO Agreement denied by the EU and certain Member States. In response to the EU's failure to withdraw the WTO-inconsistent subsidies or remove their adverse effects, the United States imposed additional duties of 10 percent on large civil aircraft and 25 percent on certain other products of the EU, effective October 18, 2019. USTR subsequently reviewed and modified this tariff action in accordance with the applicable provisions under section 306 of the Trade Act.

On June 15, 2021, the United States reached an understanding with the EU on a cooperative framework that would suspend tariffs for five years, ensure that future government financing is on market terms, and provide for joint, concrete action to confront the emerging threat from China's and other non-market practices in this sector. On June 17, 2021, the United States

reached a similar understanding with the United Kingdom. USTR proceeded to suspend for five years the tariff action in the section 301 investigation involving the enforcement of U.S. rights in the LCA dispute.

India – Measures Concerning the Importation of Certain Agricultural Products (DS430)

The United States successfully challenged India's ban on poultry and other products. In June 2015, the WTO Dispute Settlement Body (DSB) adopted panel and Appellate Body reports finding that India's ban on poultry and other products, allegedly to protect against introduction of avian influenza, is inconsistent with WTO rules. Because India had not brought its measure into compliance by the end of the reasonable period of time for implementation, in July 2016, the United States requested authorization from the DSB to impose countermeasures worth more than $450 million; India objected to the request, referring the matter to arbitration. In April 2017, India requested a compliance panel to review whether new measures that India promulgated after the U.S. request for authorization to suspend concessions brought India into compliance. On March 15, 2024, the United States and India notified the DSB that they had reached a mutually agreed solution to the matter raised in this dispute.

Indonesia – Importation of Horticultural Products, Animals and Animal Products (DS478)

The United States, together with New Zealand, successfully challenged Indonesia's import licensing regimes and restrictions on horticultural products, animal products (such as beef and poultry), and animals. The panel report was circulated in December 2016, and the United States prevailed on all claims. Indonesia appealed the panel report. In November 2017, the WTO upheld the original panel findings in the dispute that all 18 Indonesian measures challenged by the United States are inconsistent with Indonesia's WTO obligations and are not justified as legitimate public policy measures. Indonesia agreed that the reasonable period of time for implementation of the WTO's recommendations expired in July 2018. In August 2018, the United States requested authorization from the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU. Indonesia objected to the United States' proposed level of suspension of concessions, and the matter was referred to arbitration pursuant to Article 22.6 of the DSU. The parties continue to discuss a resolution to the U.S. concerns.

China – Domestic Support for Agricultural Producers (DS511)

USTR continues to monitor two challenges to China's agricultural policies relating to grains. In this dispute, the United States challenged China's provision of domestic support to wheat, rice, and corn producers in excess of its Aggregate Measure of Support commitments under the WTO Agreement on Agriculture. In 2019, a WTO panel agreed with the United States that China provided domestic support to its agricultural producers in 2012-2015, well in excess of its WTO commitments. Specifically, the panel found that China had provided support in excess of permitted levels for Indica (long-grain) rice, Japonica (short- and medium-grain) rice, and wheat, in every year. Each finding individually established that China breached its overall agricultural domestic support commitment for agricultural producers. Neither party appealed the report, and the DSB adopted the report on April 26, 2019. China and the United States agreed that the

reasonable period of time for China to implement the WTO's recommendations would expire on June 30, 2020. China claimed that it had implemented the WTO's recommendation, but the United States was not in a position to agree with China's claim. On July 16, 2020, the United States requested authorization from the DSB to take countermeasures under Article 22.2 of the DSU. China objected to the level of countermeasures identified in the U.S. request, referring the matter to arbitration under Article 22.6 of the DSU.

China – Tariff Rate Quotas for Certain Agricultural Products (DS517)

In this dispute, the United States also challenged China's administration of its TRQs for grains. The United States asserted that China's administration of its TRQs was not transparent, predictable, or fair; was not administered using clearly specified requirements or administrative procedures; inhibited the filling of the TRQs; and thus, appeared inconsistent with commitments in China's WTO Accession Protocol and the *General Agreement on Tariffs and Trade* (GATT) 1994. In 2019, a WTO panel circulated its report, and the United States prevailed on its claims that China's TRQ administration is inconsistent with WTO rules. Neither party appealed the report, and the DSB adopted the report on May 28, 2019. China and the United States agreed that the reasonable period of time for China to implement the WTO's recommendations would expire on December 31, 2019. On February 17, 2020, China notified the DSB that as of December 31, 2019, China had fully implemented the WTO's recommendations in this matter. To allow the United States time to evaluate China's compliance measures, China and the United States mutually agreed to modify the reasonable period of time to expire on June 29, 2021. On July 15, 2021, the United States requested authorization from the DSB to suspend concessions or other obligations pursuant to Article 22.2 of the DSU. China filed a request for the establishment of a compliance panel under Article 21.5 of the DSU.

China – Additional Duties on Certain Products from the United States (DS558)

On July 16, 2018, the United States requested consultations concerning China's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measure that appears inconsistent with Articles I and II of the GATT 1994, because China does not impose a similar duty increase on the products of other WTO Members and the applied duties are above China's bound rates. Consultations took place on August 29, 2018. At the U.S. request, the panel was established in November 2018. On August 16, 2023, the panel circulated its final report finding that China's retaliatory measure was inconsistent with WTO rules. The panel rejected China's claim that the U.S. section 232 measures are safeguard measures and that China's retaliatory duties are justified as "rebalancing" measures under the WTO Agreement on Safeguards. In September 2023, China notified the DSB of its decision to appeal the panel report.

European Union – Additional Duties on Certain Products from the United States (DS559)

On July 16, 2018, the United States requested consultations concerning the EU's imposition of additional duties in retaliation to the action of the United States under section 232 on national

security grounds. The consultations request identified an additional duties measure that appeared inconsistent with Articles I and II of the GATT 1994, because the EU did not impose a similar duty increase on the products of other WTO Members and the applied duties were above the EU's bound rates. Consultations took place on August 28, 2018. At the U.S. request, the panel was established in November 2018. Following the U.S.-EU arrangement announced on October 31, 2021, the panel proceedings were terminated and the matter was referred to arbitration proceedings that are suspended indefinitely.

Turkey – Additional Duties on Certain Products from the United States (DS561)

On July 16, 2018, the United States requested consultations concerning Turkey's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measure that appears inconsistent with Articles I and II of the GATT 1994, because Turkey does not impose a similar duty increase on the products of other WTO Members and the applied duties are above Turkey's bound rates. Consultations took place on August 29, 2018. On October 18, 2018, the United States requested supplemental consultations that took place on November 14, 2018, regarding amendments to Turkey's measure. At the U.S. request, the panel was established in January 2019. On December 19, 2023, the panel circulated its final report finding that Turkey's retaliatory measure was inconsistent with WTO rules. The panel rejected Turkey's claim that the U.S. section 232 measures are safeguard measures and that Turkey's retaliatory duties are justified as "rebalancing" measures under the WTO Agreement on Safeguards. In January 2024, Turkey notified the DSB of its decision to appeal the panel report.

Russia – Additional Duties on Certain Products from the United States (DS566)

On August 27, 2018, the United States requested consultations concerning Russia's imposition of additional duties in retaliation to the action of the United States under section 232 on national security grounds. The consultations request identified an additional duties measure that appears inconsistent with Articles I and II of the GATT 1994, because Russia does not impose a similar duty increase on the products of other WTO Members and the applied duties are above Russia's bound rates. Consultations took place on November 9, 2018. At the U.S. request, the panel was established in December 2018. In April 2022, following Russia's unprovoked invasion of Ukraine in violation of international law, the United States suspended permanent normal trade relations with Russia and will continue to partner with other WTO Members to isolate and ostracize Russia in the WTO and other multilateral institutions.

Defense Against Other WTO Challenges

The United States is defending numerous WTO challenges against duties and other actions taken to protect U.S. national security interests. As noted above, the United States has brought several challenges to retaliatory duties imposed by countries in response to those national security actions. Examples of the United States' defensive cases include:

United States – Tariff Measures on Certain Goods from China (DS543)

On April 4, 2018, China requested consultations with the United States concerning certain tariff measures on Chinese goods which would allegedly be implemented through section 301 of the Trade Act of 1974. The United States responded that it was willing to enter into consultations with China, without prejudice to its view that China's request did not satisfy the requirements of Article 4 of the DSU. China filed an addendum to its consultations request on July 9, 2018. Consultations took place in August and October 2018, but the parties were unable to reach a mutually satisfactory resolution to the dispute. At China's request, the WTO established a panel in June 2019. The panel held hearings with the parties in October 2019 and February 2020.

The panel circulated its report on September 15, 2020. The panel concluded that the tariff measures at issue are inconsistent with Article I:1 of the GATT 1994 (MFN), because they fail to provide treatment for Chinese products that is no less favorable than that granted to like products originating from other WTO Members, and with Articles II:1(a) and (b) of the GATT 1994, because the additional duties are in excess of the bound rates found in the U.S. Schedule. On October 27, 2020, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Certain Measures on Steel and Aluminum Products (DS544)

On April 5, 2018, China requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from China. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At China's request, in November 2018, the WTO established a panel. On December 9, 2022, the panel circulated its final report finding the U.S. measures were inconsistent with various obligations under the GATT 1994, and that these inconsistencies were not justified under Article XXI(b)(iii) of the GATT 1994.

On January 26, 2023, the United States notified the DSB of its decision to appeal certain issues of law and legal interpretation covered in the panel report. In a statement to the DSB, the United States rejected the panel's erroneous interpretation of Article XXI(b), noting that for over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in WTO dispute settlement, and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security.[14]

[14] *See* Dispute Settlement Body, Minutes of the Meeting Held on January 27, 2023, WT/DSB/M/475.

While China and other WTO Members have recently chosen to pursue legal challenges to U.S. national security measures in the WTO, USTR has been clear – and will continue to be clear – that the United States will not cede decision-making over its essential security to WTO panels. The Biden Administration remains committed to preserving U.S. national security, including by protecting human rights and democracy across the globe. The U.S. Government has a responsibility to protect the security of its citizens and, as a nation, we are responsible for our security commitments to allies and partners. Neither of these responsibilities can be abridged by the WTO inserting itself into issues of national security. The United States intends to continue raising this fundamental issue until necessary steps are taken to ensure our national security rights remain intact.

The panel report in this dispute disregards the reality of sovereign nations, who must anticipate – not react to – issues of national security. The WTO as an institution has no business asserting its own standard that action may only be taken when it is too late. From the beginning, the United States made clear that the WTO is not the appropriate venue to adjudicate matters of national security. Despite these clear statements, China persisted in pushing the WTO to undertake this review, while simultaneously imposing illegal unilateral retaliatory measures on U.S. exports. We have seen in the past how China has sought to use WTO dispute settlement to undermine tools that were meant to address unfair trade, such as disciplines on dumping and subsidies. But a WTO that serves to shield China's non-market policies and practices is not in anyone's interest. Likewise, China should not be able to use the WTO to interfere with Members' responses to national security issues related to those policies and practices. Yet, in this dispute and others, we see China pursuing a strategy that would convert the WTO into a permanent venue for national security disagreements. Allowing such erroneous reports to be adopted would only help erode the foundations of the multilateral trading system. The United States therefore notified the DSB of its decision to appeal this damaging and erroneous report.

United States – Certain Measures on Steel and Aluminum Products (DS548)

On June 1, 2018, the EU requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from the EU. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the EU's request, in November 2018, the WTO established a panel. Following the U.S.-EU arrangement announced on October 31, 2021, the panel proceedings were terminated, and the matter was referred to arbitration proceedings that are suspended indefinitely.

United States – Certain Measures on Steel and Aluminum Products (DS552)

On June 12, 2018, Norway requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Norway. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in July 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Norway's request, in November 2018, the WTO established a panel. On December 9, 2022, the panel circulated its final report finding the U.S. measures were inconsistent with various obligations under the GATT 1994, and that these inconsistencies were not justified under Article XXI(b)(iii) of the GATT 1994.

On January 26, 2023, the United States notified the DSB of its decision to appeal issues of law covered in the panel report, and stated that we would confer with Norway on the way forward in this dispute. In a statement to the DSB, the United States rejected the panel's erroneous interpretation of Article XXI(b), noting that for over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in WTO dispute settlement, and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security.[15]

While China and other WTO Members have recently chosen to pursue legal challenges to U.S. national security measures in the WTO, USTR has been clear – and will continue to be clear – that the United States will not cede decision-making over its essential security to WTO panels. The Biden Administration remains committed to preserving U.S. national security, including by protecting human rights and democracy across the globe. The U.S. Government has a responsibility to protect the security of its citizens and, as a nation, we are responsible for our security commitments to allies and partners. Neither of these responsibilities can be abridged by the WTO inserting itself into issues of national security. The United States intends to continue raising this fundamental issue until necessary steps are taken to ensure our national security rights remain intact.

The panel report in this dispute disregards the reality of sovereign nations, who must anticipate – not react to – issues of national security. The WTO as an institution has no business asserting its own standard that action may only be taken when it is too late. From the beginning, the United States made clear that the WTO is not the appropriate venue to adjudicate matters of national security. Allowing such erroneous reports to be adopted would only help erode the foundations of the multilateral trading system. The United States therefore notified the DSB of its decision to appeal this damaging and erroneous report.

[15] *See* Dispute Settlement Body, Minutes of the Meeting Held on January 27, 2023, WT/DSB/M/475.

United States – Certain Measures on Steel and Aluminum Products (DS554)

On June 29, 2018, the Russian Federation requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from the Russian Federation. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in August 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At the Russian Federation's request, in November 2018, the WTO established a panel. In April 2022, following Russia's unprovoked invasion of Ukraine in violation of international law, the United States suspended permanent normal trade relations with Russia and will continue to partner with other WTO Members to isolate and ostracize Russia in the WTO and other multilateral institutions. On June 23, 2023, the panel accepted a request by Russia for the panel to suspend its work in this dispute. On June 25, 2024, the WTO Secretariat published a note indicating that the authority for the establishment of the panel in DS554 had lapsed because the panel had not been requested to resume its work.

United States – Certain Measures on Steel and Aluminum Products (DS556)

On July 9, 2018, Switzerland requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Switzerland. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in August 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Switzerland's request, in December 2018, the WTO established a panel. On December 9, 2022, the panel circulated its final report finding the U.S. measures were inconsistent with various obligations under the GATT 1994, and that these inconsistencies were not justified under Article XXI(b)(iii) of the GATT 1994.

On January 26, 2023, the United States notified the DSB of its decision to appeal issues of law covered in the panel report, and stated that we would confer with Switzerland on the way forward in this dispute. In a statement to the DSB, the United States rejected the panel's erroneous interpretation of Article XXI(b), noting that for over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in

WTO dispute settlement, and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security.[16]

While China and other WTO Members have recently chosen to pursue legal challenges to U.S. national security measures in the WTO, USTR has been clear – and will continue to be clear – that the United States will not cede decision-making over its essential security to WTO panels. The Biden Administration remains committed to preserving U.S. national security, including by protecting human rights and democracy across the globe. The U.S. Government has a responsibility to protect the security of its citizens and, as a nation, we are responsible for our security commitments to allies and partners. Neither of these responsibilities can be abridged by the WTO inserting itself into issues of national security. The United States intends to continue raising this fundamental issue until necessary steps are taken to ensure our national security rights remain intact.

The panel report in this dispute disregards the reality of sovereign nations, who must anticipate – not react to – issues of national security. The WTO as an institution has no business asserting its own standard that action may only be taken when it is too late. From the beginning, the United States made clear that the WTO is not the appropriate venue to adjudicate matters of national security. Allowing such erroneous reports to be adopted would only help erode the foundations of the multilateral trading system. The United States therefore notified the DSB of its decision to appeal this damaging and erroneous report.

United States – Certain Measures on Steel and Aluminum Products (DS564)

On August 15, 2018, Turkey requested consultations concerning certain duties that the United States imposed on imports of steel and aluminum products from Turkey. The consultations request alleges that the measures appear to breach various provisions of the GATT 1994 and the Agreement on Safeguards. Without prejudice to the U.S. view that the tariffs imposed pursuant to section 232 are issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, and that the consultations provision in the Agreement on Safeguards is not applicable, the United States indicated it was willing to enter into consultations. Consultations were held in October 2018. The parties failed to reach a mutually satisfactory resolution to the dispute. At Turkey's request, in November 2018, the WTO established a panel. On December 9, 2022, the panel circulated its final report finding the U.S. measures were inconsistent with various obligations under the GATT 1994, and that these inconsistencies were not justified under Article XXI(b)(iii) of the GATT 1994.

On January 26, 2023, the United States notified the DSB of its decision to appeal issues of law covered in the panel report. In a statement to the DSB, the United States rejected the panel's erroneous interpretation of Article XXI(b), noting that for over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in

[16] *See* Dispute Settlement Body, Minutes of the Meeting Held on January 27, 2023, WT/DSB/M/475.

WTO dispute settlement, and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security.[17]

While China and other WTO Members have recently chosen to pursue legal challenges to U.S. national security measures in the WTO, USTR has been clear – and will continue to be clear – that the United States will not cede decision-making over its essential security to WTO panels. The Biden Administration remains committed to preserving U.S. national security, including by protecting human rights and democracy across the globe. The U.S. Government has a responsibility to protect the security of its citizens and, as a nation, we are responsible for our security commitments to allies and partners. Neither of these responsibilities can be abridged by the WTO inserting itself into issues of national security. The United States intends to continue raising this fundamental issue until necessary steps are taken to ensure our national security rights remain intact.

The panel report in this dispute disregards the reality of sovereign nations, who must anticipate – not react to – issues of national security. The WTO as an institution has no business asserting its own standard that action may only be taken when it is too late. From the beginning, the United States made clear that the WTO is not the appropriate venue to adjudicate matters of national security. Allowing such erroneous reports to be adopted would only help erode the foundations of the multilateral trading system. The United States therefore notified the DSB of its decision to appeal this damaging and erroneous report.

United States – Origin Marking Requirement (DS597)

On October 30, 2020, Hong Kong, China, requested consultations concerning certain measures affecting marks of origin with respect to imported goods produced in Hong Kong, China. The consultation request alleges that the measures appear to breach various provisions of the GATT 1994, the Agreement on Rules of Origin and the Agreement on Technical Barriers to Trade. Consultations took place on November 24, 2020. At the request of Hong Kong, China, the WTO established a panel on February 22, 2021. The United States has invoked Article XXI of the GATT 1994, the essential security exception, explaining to the panel that the dispute concerns issues of essential security not susceptible to review or capable of resolution by WTO dispute settlement. The panel held hearings with the parties in August 2021 and February 2022.

The panel circulated its report on December 21, 2022. The panel concluded that the measures at issue are inconsistent with Article IX:1 of the GATT 1994. The panel found that the measures at issue fail to provide no less favorable treatment to products from Hong Kong, China than products originating from a third country. The panel rejected the United States interpretation that Article XXI(b) is self-judging and found that the United States had not demonstrated that the situation at issue with respect to Hong Kong, China, constitutes an "emergency in international relations" such that the marking requirement could be justified under the exception.

[17] *See* Dispute Settlement Body, Minutes of the Meeting Held on January 27, 2023, WT/DSB/M/475.

On January 26, 2023, the United States notified the DSB of its decision to appeal certain issues of law and legal interpretations covered in the panel report. In a statement to the DSB, the United States rejected the panel's erroneous interpretation of Article XXI(b), noting that for over 70 years, the United States has held the clear and unequivocal position that issues of national security cannot be reviewed in WTO dispute settlement, and the WTO has no authority to second-guess the ability of a WTO Member to respond to a wide-range of threats to its security.[18]

The U.S. emphasized how the challenged actions with respect to Hong Kong, China were based on well-grounded determinations implicating U.S. essential security interests relating to democracy and human rights.[19] The United States explained that it *does* consider democratic principles and human rights to be critical to its essential security interests – as is reflected in the U.S. National Security Strategy.[20] In the DSB statement, the United States explained that we fundamentally disagree with the panel's approach, which suggests a state ought to defer consideration of its essential security interests until after a breakdown in relations. A WTO Member cannot be expected to wait until it is too late to act, or be required to sever relations as a prerequisite for other action it considers necessary. The United States stressed that the WTO does not have the competence or the authority to assess the foreign affairs relationships of a Member. Nor does it have the competence or authority to pass judgment on the value that the United States – and some other WTO Members – place on freedom and human rights, and the actions they take in seeking to secure those values. Accordingly, the United States could not support adoption of this fundamentally flawed and deeply concerning report.[21]

While China and other WTO Members have recently chosen to pursue legal challenges to U.S. national security measures in the WTO, USTR has been clear – and will continue to be clear – that the United States will not cede decision-making over its essential security to WTO panels. The Biden Administration remains committed to preserving U.S. national security, including by protecting human rights and democracy across the globe. The U.S. Government has a responsibility to protect the security of its citizens and, as a nation, we are responsible for our security commitments to allies and partners. Neither of these responsibilities can be abridged by the WTO inserting itself into issues of national security. The United States intends to continue raising this fundamental issue until necessary steps are taken to ensure our national security rights remain intact.

United States – Certain Tax Credits under the Inflation Reduction Act (DS623)

On March 26, 2024, China requested consultations with the United States concerning aspects of five tax credits created or amended by the Inflation Reduction Act, P.L. 117-169 (IRA). The consultation request alleges that the measures appear to breach various provisions of the GATT 1994, the Agreement on Trade-Related Investment Measures, and the Agreement on Subsidies and Countervailing Measures. On April 5, 2024, the United States accepted China's request

[18] *See* Dispute Settlement Body, Minutes of the Meeting Held on January 27, 2023, WT/DSB/M/475.
[19] *See id.*
[20] *See id.*
[21] *See id.*

without prejudice to whether it raises issues of national security not susceptible to review or capable of resolution by WTO dispute settlement.

Defense of U.S. Trade Remedies Laws

For decades, Congress has maintained laws designed to prevent unfair practices such as injuriously dumped or subsidized imports, or harmful surges of imports, from distorting the U.S. market. These laws represent a critical bargain between the U.S. Government and American workers, farmers, ranchers, and businesses (small and large) that underpins USTR's worker-centric trade policy. These laws reflect the core principles and legal rights of the international trading system since its founding in 1947 with the GATT. Article VI of the GATT, in the strongest language possible, states that injurious dumping "is to be condemned." Trade remedies are fundamental to the implementation of the WTO agreements and the prevention of market distortions from unfair trade practices.

Consistent with the strong textual foundation in the GATT and WTO agreements, Title VII of the Tariff Act of 1930 authorizes the U.S. Department of Commerce (USDOC) to impose antidumping and countervailing duties on imports that are either "dumped" (sold at less than their fair value) or subsidized – if the U.S. International Trade Commission (USITC) finds that such imports cause or threaten material injury to a domestic industry. The antidumping duty (AD) and countervailing duty (CVD) laws are fully consistent with WTO obligations – and, indeed, the WTO agreements specifically provide for such laws. For decades, domestic producers could seek relief under U.S. AD or CVD laws, or both. The USDOC also has the authority to self-initiate such cases if circumstances warrant.

USTR will continue to vigorously enforce U.S. rights to impose antidumping and countervailing duties to counteract injurious dumping or subsidies and defend against actions brought by foreign governments at the WTO. Over the last ten years, a significant share of WTO challenges to U.S. actions were to U.S. trade remedies actions. Foreign governments have challenged U.S. laws and practices in addition to specific trade remedies orders related to specific products and countries.

In this context, USTR's primary objective is to defend USDOC's ability to apply appropriate antidumping and countervailing duties to combat distortions caused by China's unfair non-market economy system and government subsidies that are injuring U.S. workers and industries, as well as the unfair trade practices of other countries. The international solar, steel, and aluminum markets, for example, have experienced significant oversupply due in large part to production from non-market excess capacity in China and increasingly in other countries as well. This oversupply has caused severe market distortions, including adverse effects on U.S. and global prices, and the displacement of U.S. exports in foreign markets. In addition, trade remedies may assist U.S. workers and industry by counteracting some of the injury caused by unfairly traded imports into the United States from China and other countries. Trade remedies

are, therefore, essential tools in combatting market distortions such as non-market excess capacity.

USTR will continue to aggressively defend all WTO and free trade agreement challenges to U.S. antidumping, anti-subsidy, and safeguard actions, including in the context of numerous ongoing disputes, such as:

United States – Countervailing Measures on Certain Pipe and Tube Products (DS523)

On March 8, 2017, Turkey requested consultations challenging U.S. CVD orders on four categories of pipe and tube products from Turkey: oil country tubular goods, welded line pipe, heavy walled rectangular welded carbon steel pipes and tubes, and circular welded carbon steel pipes and tubes. Turkey challenged the USDOC's findings regarding public body, benchmarks, specificity, and facts available, as well as the USITC's "practice" of "cross-cumulation" and its application in the underlying proceedings. On December 18, 2018, the panel found against the United States on public body, specificity, the application of facts available, and cross-cumulation in original investigations, but rejected Turkey's claims regarding benchmarks and cross-cumulation in five-year reviews. The United States appealed the issues of public body, specificity, the application of facts available, and cross-cumulation, and Turkey cross-appealed on the issue of public body. In December 2019, the appellate division communicated its decision to suspend its work on this appeal.

United States – Antidumping Measures on Fish Fillets from Vietnam (DS536)

On January 8, 2018, Vietnam requested consultations concerning antidumping duty measures pertaining to frozen fish fillets from Vietnam. The consultation request alleged claims regarding zeroing, revocation, application of adverse facts available and a government-wide entity rate, and the USDOC's determination pursuant to section 129 of the Uruguay Round Agreements Act. Consultations took place on March 1, 2018. At Vietnam's request, the WTO established a panel in July 2018. The panel report has not been circulated.

United States – Antidumping and Countervailing Duties on Certain Products and the Use of Facts Available (DS539)

On February 14, 2018, Korea requested WTO dispute settlement consultations regarding the USDOC's use of facts available in certain antidumping and countervailing duty measures against Korea, and certain laws, regulations, and other measures maintained by the United States with respect to the use of facts available in AD and CVD proceedings. The United States and Korea held consultations in March 2018. At Korea's request, the WTO established a panel in May 2018.

The panel circulated its report on January 21, 2021. The panel found that Commerce acted inconsistently with the Antidumping (AD) Agreement or Subsidies and Countervailing Measures (SCM) Agreement in either resorting to facts available or selecting the replacement facts in the eight instances challenged by Korea. With respect to the "as such" claim against an alleged unwritten measure, the panel found that Korea failed to establish that such an unwritten rule even

existed. This obviated the panel's need to evaluate whether such a rule (if it did exist) would breach the AD Agreement or SCM Agreement.

On March 19, 2021, the United States notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Safeguard Measure on Imports of Crystalline Silicon Photovoltaic Products (DS562)

In 2019, China requested a panel concerning the United States' application of a safeguard measure on crystalline silicon photovoltaic products, alleging claims under the GATT 1994 and the WTO Agreement on Safeguards relating to several procedural and substantive obligations.

The panel circulated its report on September 2, 2021, which rejected all of China's challenges in the dispute. The panel found that the United States established that solar imports had increased as a result of unforeseen developments, established a causal link between increased imports and serious injury to the domestic industry, and appropriately considered other factors besides increased imports that were allegedly causing injury to the domestic industry.

On September 16, 2021, China notified the DSB of its decision to appeal certain issues of law covered in the panel report.

United States – Antidumping and Countervailing Duties on Ripe Olives from Spain (DS577)

In 2019, the EU challenged AD and CVD measures on ripe olives from Spain, alleging claims regarding specificity, subsidy pass-through analysis, the manner in which final subsidy rates were calculated, and injury.

On November 19, 2021, the panel circulated its final report. The panel found that the United States acted inconsistently with the SCM Agreement and GATT 1994 in calculating the final subsidy rate of one respondent, and in relying upon section 771B of the Tariff Act of 1930 to attribute benefits to downstream agricultural processors. The panel also found that certain factual findings related to USDOC's specificity determination were inconsistent with the SCM Agreement. The panel rejected the EU's other claims concerning specificity and rejected all of the EU's claims concerning the USITC's injury determination. On December 20, 2021, the DSB adopted the panel report.

On July 5, 2022, the United States requested that the USDOC initiate a proceeding under section 129 of the Uruguay Round Agreements act to address the panel's recommendations relating to the CVD investigation. On January 12, 2023, USTR directed USDOC to implement its Section 129 final determination, and on January 17, 2023, the United States informed the DSB that it had complied with the panel's recommendations.

On May 2, 2023, the EU requested consultations with the United States with respect to the section 129 redetermination concerning the attribution of benefits to downstream agricultural processors under section 771B. Consultations were held on May 24, 2023, but failed to resolve the dispute. At the EU's request, the WTO established a compliance panel on July 31. The

panel circulated its final report on February 20, 2024, and found that the USDOC's revised analysis of section 771B failed to implement the relevant DSB recommendations that section 771B is "as such" inconsistent with Article VI:3 of the GATT 1994 and Article 10 of the SCM Agreement. The panel also found that the USDOC's application of section 771B in the section 129 proceeding was inconsistent with Article VI:3 of the GATT 1994 and Article 10 of the SCM Agreement. On March 19, 2024, the DSB adopted the panel report.

United States – Anti-dumping Measure on Oil Country Tubular Goods from Argentina (DS617)

On May 19, 2023, Argentina requested consultations concerning an antidumping measure pertaining to oil country tubular goods from Argentina, as well as the cross-cumulation statute (19 U.S.C. § 1677(7)(G)). The consultation request alleges claims regarding initiation and industry support, cumulation of imports, and aspects of the USITC's injury determination. Consultations were held on July 26, 2023.

At Argentina's request, the WTO established a panel on October 26, 2023. The panel proceedings are ongoing.

Enforcement Supporting the Strategic Interests of the United States

Enforcement plays a critical role in promoting predictability and leveling the playing field in global markets, including with respect to agricultural trade. USTR will prioritize enforcement efforts with respect to key U.S. values, such as promoting labor rights and environmental protection, as well as strategic priorities of the United States, including those identified under Executive Order 14017, America's Supply Chains. USTR will also continue engagement with WTO committees, which are important instruments supporting United States monitoring and enforcement of certain trade commitments undertaken by Members.

Enforcement Supporting U.S. Agriculture

USTR will continue enforcing our existing agreements so U.S. producers can compete on a level playing field in agricultural trade. For example, USTR has intensified work to find mutually agreed solutions on outstanding WTO disputes, while maintaining the integrity of U.S. measures. This has already resulted in the resolution of seven WTO disputes in 2023 and one WTO dispute in 2024, as well as the removal of certain retaliatory tariffs and other non-tariff barriers, which will restore and expand market opportunities for U.S. agricultural producers and manufacturers.

- In July 2024, Australia restored market access for U.S. cherries and eliminated its newly imposed regulatory requirements on other U.S. stone fruits. This came after a June 2024 detection of a plant pest in a single shipment of Californian cherries to Australia, which led to Australia's suspension of all U.S. cherries and increased regulatory requirements for U.S. stone fruit. After successful intervention by USTR and the U.S. Department of Agriculture (USDA), Australia lifted all restrictions on July 15, 2024.

- In June 2024, after many years of persistent engagement by USTR, Korea's Animal and Plant Quarantine Agency granted market access for fresh grapefruit from Texas. This decision followed prolonged negotiations between the United States and South Korea, after the United States requested market access for Texas grapefruit in 2006.

- In June 2024, Uzbekistan agreed to accept exports of meat and poultry products from any U.S. federally authorized establishment beginning on June 1, 2024. Since 2021 and until this announcement, only 29 U.S. establishments were allowed to export meat and poultry products to Uzbekistan.

- In March 2024, President Naboa signed the final implementing regulation for Ecuador's 2022 dairy law, which did not include previously-considered language that would have restricted access for U.S. powdered milk. Ecuador confirmed to the United States that the U.S. engagement was crucial in removing the problematic language from the final draft.

- In February 2024, following extensive technical engagement with USTR and USDA, the Instituto Colombiano Agropecuario formally reopened the Colombian market for U.S. poultry and egg products. The Government of Colombia had stopped issuing import permits for U.S. poultry in August 2023.

- In September 2023, the United States and India agreed to terminate the WTO dispute *India – Agricultural Products* (DS430) and improve market access for U.S. agricultural producers. India agreed to reduce tariffs on frozen turkey and frozen duck (to 5 percent) and on fresh blueberries and cranberries, frozen blueberries and cranberries, dried blueberries and cranberries, and processed blueberries (10 percent), and processed cranberries (5 percent). In March 2024, the United States and India notified the DSB that they had reached a mutually agreed solution in *India – Agricultural Products* (DS430).

- In June 2023, the United States and India agreed to terminate six outstanding disputes at the WTO.[22] India also agreed to remove retaliatory tariffs, which it had imposed in response to the U.S. section 232 national security measures on steel and aluminum, on certain U.S. products, including chickpeas, lentils, almonds, walnuts, apples, boric acid, and diagnostic reagents.

[22] *United States – Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India* (DS436); *India – Certain Measures Relating to Solar Cells and Solar Modules* (DS456); *United States – Certain Measures Relating to the Renewable Energy Sector* (DS510); *India – Export Related Measures* (DS541); *United States – Certain Measures on Steel and Aluminium Products* (DS547); and, *India – Additional Duties on Certain Products from the United States* (DS585).

- In February 2023, India announced a 70 percent cut to tariffs on U.S. pecan exports, removing a longstanding barrier to U.S. agricultural trade.

Farmers, ranchers, fishers, and food manufacturers are key to our worker-centered trade policy, and USTR is fighting to achieve quick, economically meaningful wins for them. In 2024, the Administration will continue to improve economic opportunities for U.S. farmers, ranchers, and food manufacturers by expanding market access opportunities in foreign markets through the negotiation of agreements that include provisions intended to eliminate or reduce nontariff barriers that can hamper market access for U.S. agricultural products. The Administration will seek to include in these agreements enforceable provisions that build on WTO obligations, including provisions to ensure that sanitary and phytosanitary measures are science-based, developed through transparent, predictable processes, and implemented in a nondiscriminatory manner.

Section 301 Petition and Further Monitoring

On September 8, 2022, USTR received a petition requesting an investigation of certain alleged acts, policies, and practices of the Government of Mexico concerning seasonal and perishable agricultural products. On October 23, 2022, USTR announced that due to the complexities of the factual and legal issues raised in the petition, it could not conclude during the 45-day statutory review period that an investigation would be effective and was not opening an investigation at that time. USTR also announced that in light of challenges faced by southeastern U.S. producers as described in the petition, it would, in coordination with USDA, establish a private-sector industry advisory panel to promote the competitiveness of producers of seasonal and perishable produce in the southeastern United States. On May 30, 2024, USTR and USDA announced the members of a new trade advisory committee, the Seasonal and Perishable Agricultural Products Advisory Committee, to provide advice and recommendations in connection with U.S. trade policy that concerns administrative actions and legislation to promote the competitiveness of southeastern U.S. producers of seasonal and perishable agricultural products.

Supply Chains

As part of the Administration's whole-of-government approach to strengthen the resilience of critical supply chains, USTR leads the interagency Supply Chain Trade Task Force. The Supply Chain Trade Task Force supports the goals of Executive Order 14017 by identifying unilateral and multilateral trade actions that the United States can bring to combat unfair foreign trade practices that undermine U.S. supply chains, as well as opportunities to use trade tools and agreements to make U.S. supply chains more resilient to market disruptions. Interagency members of the Supply Chain Trade Task Force are supporting USTR-led public engagement to inform objectives and strategies that advance U.S. supply chain resilience in trade negotiations, enforcement, and other initiatives. As part of this public engagement, USTR received nearly 300 written submissions and took hearing testimony from over 80 witnesses. Guided by this stakeholder input, USTR will continue to work to develop durable solutions that strengthen the resiliency of critical supply chains, and to adapt this work to new developments.

Intellectual Property and Forced or Pressured Technology Transfer

Consistent with USTR's 2024 Special 301 Report, USTR will continue to prioritize enforcement efforts with respect to key countries where IP protection and enforcement have deteriorated or remained at unacceptable levels and where barriers deny fair and equitable market access for Americans who rely on IP protection.

The United States has been closely monitoring China's progress in implementing its commitments under the Phase One Agreement, and China continues to be a major enforcement priority (*see also supra* Section 301 Investigations and Actions). In addition, USTR continues to place China on the Priority Watch List, and section 306 monitoring remains in effect. China should provide a level playing field for IP protection and enforcement, refrain from requiring or pressuring technology transfer to Chinese companies at all levels of government, further open China's market to foreign investment, and embrace open and market-oriented policies. In 2023, the pace of reforms in China aimed at addressing IP protection and enforcement remained slow. Stakeholders acknowledge some positive developments but continue to raise concerns about implementation of the amended Criminal Law, Copyright Law, and Patent Law. Stakeholder concerns remain about long-standing issues in the areas of technology transfer, trade secrets, bad faith trademarks, counterfeiting, online piracy, and geographical indications. China needs to complete the full range of fundamental changes that are required to improve the IP landscape in China.

USTR will also continue to pursue a range of enforcement efforts to address IP protection and enforcement in other countries. Outstanding challenges and trends relate to the trade in counterfeit goods; troubling "indigenous innovation" and forced or pressured technology transfer policies that may unfairly disadvantage U.S. right holders in markets abroad; inadequate protection of trade secrets, undisclosed information, and patents; lack of transparency and due process in the protection of geographical indications; and online and broadcast piracy. geographical indications; and online and broadcast piracy. USTR is committed to addressing these and other priority concerns to foster American innovation and creativity and increase economic security for American workers and families.

Environmental Enforcement under the United States–Peru Free Trade Agreement

The United States actively enforces rules and best practices relating to environmental protection, including under USMCA and other free trade agreements (FTAs), and through the use of section 301 and other mechanisms.

On October 19, 2023, USTR announced that the Interagency Committee on Trade in Timber Products (Timber Committee) had directed CBP to continue to block any timber imports from WCA until the Government of Peru demonstrates that Inversiones Oroza SRL (Oroza) has complied with all applicable laws, regulations, and other measures governing the harvest of and trade in timber. This order represents a continuation of an October 2020 order against Oroza products.

In February 2016, pursuant to the United States-Peru Trade Promotion Agreement Annex on Forest Sector Governance, the Timber Committee requested that the Government of Peru verify the legality of a 2015 timber shipment to the United States. The Government of Peru carried out the verification and reported to the Timber Committee that timber products contained in a shipment exported by Oroza were not harvested and traded in compliance with Peruvian laws, regulations, and other measures. On October 19, 2017, the Timber Committee directed CBP to deny entry to timber products originating from Peru that were produced or exported by Oroza for the shorter of three years or until the Timber Committee notifies CBP that Peru has completed an examination that demonstrates that Oroza has complied with all applicable laws, regulations, and other measures governing the harvest of and trade in timber products.

The original three-year denial of entry was set to expire on October 19, 2020. Over the three-year periods of the two orders, the Government of Peru did not take administrative or judicial action against Oroza in relation to the 2016 verification findings. Further, Peru provided no information in response to requests from USTR to provide information concerning Oroza's compliance with relevant laws, regulations, and other measures governing the harvest and trade in timber products. For these reasons, a new denial of entry order was issued in 2023.

Ensuring that Standards-Related Measures Do Not Create Unnecessary Obstacles to Trade

Standards-related measures are valuable tools that governments use to regulate in the public interest, for example, to protect health or safety, to provide consumer information, to protect the environment, or to prevent fraud or deception, among other aims. However, standards-related measures can be used as unfair trade barriers, such as when a regulation discriminates on the basis of national origin (e.g., when there is no rational relationship between the government's regulatory aim and the regulatory distinction drawn that affects domestic and imported goods differently). To ensure U.S. workers, manufacturers, and businesses can compete on a level playing field, USTR will continue to address unjustified barriers stemming from technical regulations, standards, and conformity assessment procedures that discriminate against U.S. exports or do not otherwise comply with international commitments.

USTR has intensified engagement with U.S. trading partners and increased monitoring of their practices to address measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports. During fiscal year 2023, in the three regularly scheduled World Trade Organization's Committee on Technical Barriers to Trade (WTO TBT Committee) and associated bilateral meetings, USTR raised over 90 offensive specific trade concerns and responded to 12 specific trade concerns regarding U.S. technical regulations. Additionally, USTR raised numerous concerns over standards-related measures in direct bilateral engagements with trading partners. During the reporting period, the United States expressed particular concerns about the following:

- During the WTO TBT Committee meetings, USTR raised concerns about China's proposed cybersecurity and encryption laws, its implementing measures for cosmetics supervision, regulations and administrative measures relating to overseas producers of imported food, and proposed rules for wireless charging equipment.

- During the WTO TBT Committee meetings and within the USMCA framework, USTR raised concerns about Mexico's proposed standards and burdensome conformity assessment procedures for cheese, milk powder, yogurt; automotive standards; and telecom standards and regulations. USTR also raised Canada's proposed prohibition of certain toxic substances, proposed regulations on plastics, clean fuel regulations, and requirements for supplemental foods.

- During the WTO TBT Committee meetings and bilateral engagements with the EU, USTR raised concerns about the following issues: a measure to regulate products contributing to deforestation, a draft regulation on microplastics, the regulation of medical devices and in-vitro medical devices, the EU's upcoming chemical strategy, the EU's maximum residue limits policies for pesticides, a draft regulation regarding wine denominations of origin, a draft regulation on fluorinated greenhouse gases, and a draft measure regulating toy safety.

- During the WTO TBT Committee meetings and bilateral engagements with India, USTR raised concerns about proposed food safety regulations; genetically modified free certificates for food products; and proposed in-country conformity assessment procedures for chemicals, telegraph equipment, and toys.

- During the WTO TBT Committee meetings and bilateral engagements, USTR raised concerns regarding halal labeling and certification systems in Egypt and Indonesia, including with respect to transparency, the breadth of products covered where no standards exist, and limitations on available conformity assessment bodies to perform the certification requirements.

- During the WTO TBT Committee meetings and bilateral engagements, USTR raised concerns that Colombia's new restrictions on autos and parts imports would create a significant and unnecessary burden on the automotive industry, and pressed for a resolution to continue to allow products made to U.S. Federal Motor Vehicle Safety Standards to be imported without costly and needless restrictions into Colombia.

The United States has also worked independently and within various fora to implement capacity-building projects that will strengthen the skills of developing countries. The United States actively engaged with the WTO on the Transparency Champions Program, which was launched in 2022 to build up the institutional functioning of Enquiry Points and notification authorities. The United States has also conducted projects in the Asia-Pacific Economic Cooperation (APEC) on halal regulations, lead in plumbing, plastic recycling, and good regulatory practices.