

The United States' Bogor Goals Progress Report (as at 13 August 2012)*

Highlights of Achievements and Areas for Improvement

- A high percentage of imports for consumption enter the United States duty-free. However, some MFN tariff peaks remain, especially in agriculture, which is subject to a number of non-ad valorem import duties.
- Liberalization of some services sectors such as accounting and air transportation services to selected partners through negotiations. Improved market information in broadcasting and telecommunications. Foreign ownership restrictions remain in some sectors.
- Acceptance of third party testing based on the International Laboratory Accreditation Cooperation recognition of laboratory accrediting bodies.
- The United States is implementing the Automated Commercial Environment, a single window to facilitate trade and strengthen border security.
- Nevertheless, there are some concerns that more intensive border checks and scanning requirements for containers may increase trade transaction costs.
- Effective patent reform legislation was promoted. Actions to improve IP law enforcement and raise awareness on IP matters.
- Increased transparency in competition agencies' enforcement of competition laws. Ongoing regulatory reform in independent regulatory agencies to reduce costs, simplify the system and eliminate redundancy and inconsistency
- Concerns have been raised with regards to the "Buy American" requirement in some government procurement programs.
- The United States passed legislation in November 2011 to issue ABTC cards to eligible U.S Citizens in the future.
- High transparency standards. Public notice of proposed rules and comments by interested parties, enables citizens to engage in the process to create, review and change rules.

Summary of Updates

Tariffs

In 2010, 70 percent of imports for consumption entered the United States duty-free. The U.S. trade-weighted applied tariff average, including preferences and FTAs, was equal to 1.4 percent.

Nevertheless, some MFN tariff peaks remain in certain sectors, such as footwear, leather, textiles and clothing, and agriculture. Many agricultural products are subject to non-ad valorem tariffs.

Non-Tariff Measures

The Steel Import Monitoring and Analysis Program is extending its import licensing system until March 2013. The licensing system on trade in cement was terminated in 2009.

* This brief report was prepared with information from the United States' submission of 2012 APEC Individual Action Plan (IAP) template and the minutes of the meeting of the United States' WTO Trade Policy Review from September 2010.

Services

In accounting services, the United States has concluded a Mutual Recognition Agreement (MRA) with Hong Kong, China, establishing the basis for reciprocity for accounting professions. In addition, the Uniform CPA Examination, for individuals wishing to become Certified Public Accountants in the USA, is offered at select international locations since August 2011.

Regarding air transport services, 12 Open Skies Aviation Agreements have been concluded since 2009, liberalizing bilateral passenger and cargo transportation between signing parties. In broadcast and telecommunication services, a Spectrum Dashboard to provide more transparent access to information on spectrum allocation and assignment in the United States was introduced in March 2010. The Dashboard also provides search and map functions for licenses.

Investment

The United States launched the SelectUSA Initiative to centralize the Federal Government's investment promotion infrastructure and resources, and to facilitate domestic and foreign investment. Investment promotion and liberalization are also carried out through inclusion of high standards of investor protection in FTAs and Bilateral Investment Treaties (BITs). Foreign ownership restrictions remain in some sectors such as air transport.

Standards and Conformance

In 2010, the United States started to accept third party testings based on the International Laboratory Accreditation Cooperation recognition of laboratory accrediting bodies. In February 2011, the American National Standards Institute issued the Third Edition of the U.S. Standards Strategy, which recognizes the need for standards designed to meet stakeholder needs irrespective of borders and reflects a standardization environment that incorporates new types of standards development activities, more flexible approaches and new structures.

A MRA between the United States and Mexico on Conformity Assessment of Telecommunications Equipment was concluded in May 2011. This MRA will facilitate the sale of American products in Mexico, as Mexican authorities will accept tests performed by recognized U.S. laboratories to determine the conformity of telecommunications equipment with Mexican technical requirements.

Some concerns remain with regards to certain sanitary and phytosanitary measures and technical regulations. It is perceived that some of these measures are unduly trade restrictive.

Customs Procedures

The United States is implementing the Automated Commercial Environment (ACE), a single window commercial trade processing system, to facilitate trade while strengthening border security. The ACE provides a single, centralized, online access point for communications and information related to cargo shipments. The International Trade Data System (ITDS) is a program to ensure inter-agency participation in ACE, collecting and sharing data with agencies that are responsible for compliance of imported and exported cargo with U.S. laws. Deployed in phases, ACE will be expanded to provide cargo processing capabilities across all modes of transportation and will replace existing systems with a single, multi-modal manifest system for land, air, rail, and sea cargo.

The United States has also enhanced its capabilities to pre-screen trucks and shipments to ensure the safety and security of incoming cargo, and to provide a consolidated view of rail and sea shipment manifest and entry data at the bill of lading or container level to facilitate the identification of shipments that may pose a risk and expedite the pre-arrival processing of legitimate cargo. There are some concerns that trade transaction costs may increase due to the more intensive border measures and the scanning requirement for containers.

An Anti-Dumping Countervailing Duty (AD/CVD) case management system is in place to improve the ability to track life cycle of an AD/CVD case and to facilitate trade compliance efforts by centralizing of more information.

Intellectual Property Rights

In the past several years, the U.S. Government has promoted effective patent reform legislation. The American Invents Act, signed into law in September 2011, supports U.S. efforts to improve patent quality, reduces the backlog of patent applications, reduces domestic and global patenting costs of U.S. companies, provides greater certainty in patent rights, and offers effective alternatives to costly and complex litigation.

Many of the efforts in recent years have been related to improving law enforcement and enhancing awareness at the domestic and international levels concerning IPR. Several actions to combat Intellectual Property (IP) theft are refining the IPR risk model to enhance targeting and interdiction of infringing shipments; establishing two Centers of Excellence and Expertise to facilitate the timely resolution of trade compliance issues across ports of entry; initiating Operation In Our Sites, an approach to target the sale the illicit items through the internet; increasing intra-agency coordination in investigations on possible illicit activities; developing model practices for enforcing IP in international posting and courier facilities; and deterring future violations by administering audits of companies with a high-risk of importing counterfeit and pirated goods, among others.

Competition Policy

In August 2010, the U.S. competition agencies, the Federal Trade Commission (FTC) and Department of Justice (DOJ), issued revised horizontal merger guidelines to provide a better understanding on how they analyze mergers, to identify and challenge competitively harmful mergers while avoiding unnecessary interference with mergers that have no or beneficial competitive impact. The DOJ, in June 2011, released an updated version of the Antitrust Division's Policy Guide to Merger Remedies, which provides transparency to the approach taken by the Antitrust Division to merger remedies. The guide reflects the changes in the merger landscape and the lessons the Division has learned from the remedies it has entered into since the issuance of the original guide in 2004, ensuring that it accurately details the Division's merger remedy practices.

The Federal Trade Commission closely follows and litigates against pay-for-delay agreements, in which a branded drug company pays its potential generic competitor to abandon a patent challenge and delay offering a cheaper generic version to patients.

Since 2009, the DOJ and FTC have signed Memoranda of Understanding on antitrust cooperation with the competition agencies of Russia and China, and an antitrust cooperation agreement with Chile's competition agency. In September 2010, the FTC, together with competition agencies from Mexico, Chile and Panama, also led the effort to establish the Inter-American Competition Alliance with the objective of establishing regular cooperation among antitrust agencies in the Americas. Both FTC and DOJ have actively participated in the Alliance's informal monthly teleconferences.

Government Procurement

The Government amended the Federal Acquisition Regulation which aims to enhance competition among multiple award contract holders for task and delivery orders over 5 million USD; to limit the number of single award task and delivery orders; and to clarify the ability of contractors to protest the awarding of task and delivery orders, among others.

Some concerns have been raised with regards to the “Buy American” requirements in government procurement programs and other measures at the sub-federal level.

Deregulation/Regulatory Reform

In June 2010, the Government issued a Memorandum on ‘Disclosure and Simplification as Regulatory Tools’ to provide guidance on how to achieve regulatory objectives by disclosing relevant information to the public at the right moment in time, and reducing complexity, ambiguity, and paperwork burdens, or selecting appropriate starting points or ‘default rules’.

In October 2010, the Office of Information and Regulatory Affairs issued a checklist to assist agencies in producing regulatory impact analysis (RIAs). In July 2011, the President of the United States issued the Executive Order 13579, Regulation and Regulatory Agencies, which, requires each independent regulatory agency to develop and release to the public a plan, consistent with law and reflecting its resources and regulatory priorities and processes, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. In August 2011, U.S. Government released final regulatory reform plans, including hundreds of initiatives that will reduce costs, simplify the system, and eliminate redundancy and inconsistency.

Mobility of Business People

The United States has deployed the DS-160 online non-immigrant visa application worldwide, which facilitates the visa application process. Trusted Traveler Programs continue to expand. Under the program, travelers undergo an extensive background check to determine their eligibility as low-risk, trusted travelers. Global Entry members can access the Global Entry Kiosks at 24 U.S. international airports to complete their immigration and customs processing.

In November 2011, legislation was passed to issue the ABTC to eligible U.S. citizens.

Some concerns remain with regards to the visa restrictions that are perceived to affect the supply of mode 4 services.

Transparency

Federal agencies are required to publish rules, as well as notices of proposed rules in the Federal Register. Public notice and comment rulemaking resulting in a final rule, based on the facts presented in the public record, is the basis of the adoption of final regulations. In that way, the system enables citizens to participate in the process to create, review and change rules. Proposed and final regulations are available in the internet.

The United States also notifies the WTO of certain draft technical regulations and conformity assessment procedures for comment by other WTO members.

RTA/FTAs

The United States has implemented FTAs with 19 economies, including six agreements with seven APEC economies, and secured Congressional approval for a trade agreement with Panama. The United States is currently involved in the negotiations of the Trans-Pacific Partnership Agreement.