

GAO

Report to the Ranking Minority Member,
Committee on Finance, U.S. Senate

June 2005

INTERNATIONAL TRADE

Further Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements



GAO

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Highlights of [GAO-05-537](#), a report to the Ranking Minority Member, Committee on Finance, U.S. Senate

Why GAO Did This Study

The vast majority of U.S. exports are covered by at least one trade agreement. Ensuring that U.S. companies can take advantage of the market opportunities created by trade agreements has therefore become a critical responsibility for U.S. government agencies.

GAO examined U.S. government efforts to monitor and enforce trade agreements. Specifically, GAO (1) reviewed how the nature and scope of U.S. trade agreements has changed in the last 10 years and what effect changes had on agencies' monitoring and enforcement workload, (2) evaluated how U.S. government agencies monitor and enforce trade agreements, and (3) analyzed how the U.S. government allocates resources for monitoring and enforcement of trade agreements within the context of other trade activities.

What GAO Recommends

GAO recommends that agencies (1) take steps to facilitate communication on trade issues, (2) develop a strategy for improving trade compliance training, and (3) develop a resource strategy for monitoring and enforcing trade agreements. The Departments of Agriculture and State generally concurred with GAO's recommendations. The Department of Commerce offered comments to clarify certain facts. USTR provided technical comments.

www.gao.gov/cgi-bin/getrpt?GAO-05-537.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Loren Yager at (202) 512-4347 or yagerl@gao.gov.

INTERNATIONAL TRADE

Further Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements

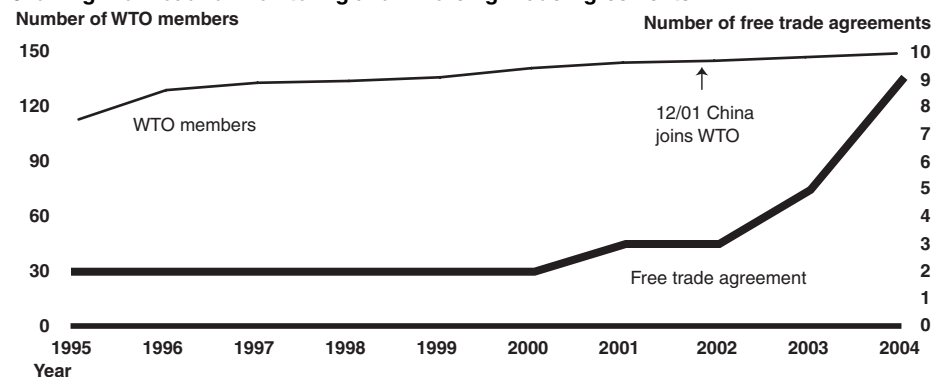
What GAO Found

The number and scope of trade agreements have grown significantly in recent years, increasing the monitoring and enforcement workload for federal agencies. For example, membership in the World Trade Organization (WTO) has grown over 30 percent in the past 10 years. In addition, trade agreements increasingly cover complex subjects like intellectual property and technical standards. As a result, the amount of work needed to ensure countries comply with such agreements has increased.

The Office of the U.S. Trade Representative (USTR) and the Departments of Agriculture, Commerce, and State generally monitor market access issues brought to the agencies' attention by complaints from the private sector or that they identify themselves. They also monitor countries' compliance with certain trade agreements. Over the past 5 years, agencies with trade responsibilities have taken steps to improve their ability to address compliance issues. However, weaknesses still exist. For example, staff we spoke with in Washington, D.C., and at overseas posts told us that communication is sometimes inefficient. Moreover, Commerce staff do not always have access to complete information from overseas posts regarding compliance issues they are working on in those countries.

Agency resources for handling compliance issues face growing demands. Competition with other activities, such as trade negotiations, and staffing and training limitations, all affect agencies' ability to effectively monitor and enforce trade agreements. For example, officials responsible for monitoring and enforcing trade agreements in all eight overseas posts we visited said that additional training would help them monitor and enforce trade agreements more effectively. Despite these constraints and agencies' shared responsibility for monitoring and enforcing trade agreements, agencies do not systematically coordinate their assessment or planning for future resource needs.

Growing Workload for Monitoring and Enforcing Trade Agreements



Source: GAO analysis of USTR and WTO data.

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Abbreviations

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|-------|---|
| APHIS | Animal and Plant Health Inspection Service |
| CS | Trade Promotion/U.S. Foreign and Commercial Service |
| EU | European Union |
| FAS | Foreign Agricultural Service |
| FDA | Food and Drug Administration |
| FSN | Foreign Service National |
| FSIS | Food Safety Inspection Service |
| FTA | free trade agreement |
| MAC | Market Access and Compliance |
| NAFTA | North American Free Trade Agreement |
| USTR | U.S. Trade Representative |
| WIPI | Wireless Internet Platform for Interoperability |
| WTO | World Trade Organization |

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United States Government Accountability Office
Washington, D.C. 20548

June 30, 2005

The Honorable Max Baucus
Ranking Minority Member
Committee on Finance
United States Senate

Dear Senator Baucus:

A top trade priority for the United States is opening foreign markets for American goods and services by ensuring that U.S. trading partners comply with existing trade agreements. This is because the vast majority of U.S. exports in 2004 were covered by at least one trade agreement. Ensuring that U.S. companies can take advantage of the market opportunities created by trade agreements has therefore become a critical responsibility for U.S. government agencies. Since U.S. government efforts to monitor and enforce trade agreements involve numerous federal agencies, these agencies must coordinate their activities to be effective and to help ensure that trade agreements are beneficial to the United States.

Given the large and growing number of U.S. trade agreements, the wide subject areas covered by such agreements, and the limited resources available to negotiate and enforce trade agreements, we examined U.S. government efforts to monitor and enforce trade agreements. Specifically, we (1) reviewed how the nature and scope of U.S. trade agreements has changed in the last 10 years and what effect the changes had on agencies' monitoring and enforcement workload, (2) evaluated how U.S. government agencies monitor and enforce trade agreements, and (3) analyzed how the U.S. government allocates resources for monitoring and enforcement of trade agreements within the context of other trade activities.

To describe the nature and scope of U.S. trade agreements, we reviewed data on trade agreements from the Office of the U.S. Trade Representative (USTR) and the Departments of Agriculture and Commerce. To evaluate how U.S. government agencies monitor and enforce trade agreements, we examined the activities of officials at four key trade agencies: USTR and the Departments of Agriculture, Commerce, and State.¹ In addition, we met

¹For the purposes of this report, we use the term "trade agencies" to collectively refer to the Office of the U.S. Trade Representative and the Departments of Agriculture, Commerce, and State.

with overseas staff involved in monitoring and enforcement in eight countries. To select the countries to visit, we considered several variables and attempted to visit a variety of posts. We further met with private sector representatives in Washington, D.C., and in the eight countries where we conducted overseas fieldwork, including private sector representatives who had recently worked with U.S. government officials to resolve trade compliance issues. We also analyzed U.S. government reports and documents, and prior GAO reports related to monitoring and enforcement activities.² To determine how the U.S. government allocates resources for monitoring and enforcement activities, we met with officials from the four key trade agencies and reviewed budget documents, strategic plans, and agency performance reports. For a more detailed explanation of our scope and methodology, including how we selected countries to visit and private sector representatives to interview, see appendix I. We conducted our work from July 2004 to April 2005 in accordance with generally accepted government auditing standards.

Results in Brief

Increasing membership in key trade agreements and the widening scope and complexity of U.S. trade agreements have added to the monitoring and enforcement workload for federal agencies. World Trade Organization (WTO) membership has increased by almost one-third over the past 10 years, increasing the workload for agency officials responsible for monitoring countries' compliance with their WTO obligations. In addition, since 2000 the United States has negotiated comprehensive free trade agreements with 12 countries. These agreements cover complex topics such as intellectual property rights and technical standards. Monitoring compliance with these agreements requires intensive efforts from agency staff, as well as staff with specialized knowledge.

Trade agencies generally monitor market access issues that U.S. companies bring to their attention or that they identify themselves, some of which may be covered by a trade agreement. They also routinely monitor countries' compliance with certain specific trade agreements. Agencies employ a variety of approaches to address these issues, including using trade agreements as leverage for resolving a particular trade issue. In recent

²GAO, *International Trade: Strategy Needed to Better Monitor and Enforce Trade Agreements*, [GAO/NSIAD-00-76](#) (Washington, D.C.: Mar. 14, 2000), and *International Trade: Improvements Needed to Track and Archive Trade Agreements*, [NSIAD-00-24](#) (Washington, D.C.: Dec. 14, 1999).

years, agencies have taken action to improve coordination and enhance human capital available to monitor and enforce trade agreements. For instance, they have taken steps to create more effective formal and informal coordination with other agencies and with the private sector. However, Commerce and State staff in Washington, D.C., and at overseas posts told us that communication is sometimes inefficient. For example, State sometimes uses classified e-mail and Web sites to exchange important, updated information on trade issues, even if the information itself is not classified. However, Commerce staff in Washington, D.C., and overseas who work on compliance issues told us that even though they have the appropriate clearances, they have limited access to these classified systems, which can impede their ability to address compliance issues.

Despite growing demands on resources for monitoring and enforcing agreements, agencies typically independently assess and plan for resource needs. As a result, the U.S. government lacks a coordinated strategy to ensure that agencies can effectively handle the growing monitoring and enforcement workload. Resources for monitoring and enforcement face growing demands from competition with other trade activities such as trade negotiations, staffing limitations, and barriers to developing and accessing expertise. For example, many Agriculture, Commerce, and State staff responsible for monitoring and enforcing trade agreements have not received training regarding how to fulfill these responsibilities, and staff in all eight countries we visited said additional training would help them fulfill these responsibilities more effectively. In spite of these growing demands and the fact that responsibility for monitoring and enforcing trade agreements is spread across multiple agencies, there is no systematic interagency coordination regarding assessing and planning for resource needs. Since it does not routinely use an interagency trade policy-making structure to address current trade policy issues, the U.S. government lacks a formal interagency mechanism or strategy for assessing and allocating resources for future monitoring and enforcement activities. While agencies have previously recognized that effectively monitoring and enforcing trade agreements requires developing a strategy for coordinating their respective resources, they have not done so since 2001. The lack of such a strategy complicates each agency's individual resource planning and sometimes strains agency resources.

In this report, we make several recommendations to improve agency efforts to monitor and enforce trade agreements in the areas of communication, training, and resource planning. We provided a draft of

this report to the Office of the U.S. Trade Representative and the Departments of Agriculture, Commerce, and State for their comments. Agriculture and State generally concurred with GAO's recommendations. Commerce offered comments to clarify certain facts. USTR submitted technical comments.

Background

Most U.S. trade is covered by trade agreements, which vary in type and complexity. In 2004, 97 percent of U.S. exports were to members of the WTO,³ and 43 percent of U.S. exports were to countries with which the United States had a free trade agreement (FTA). Some agreements are multilateral, such as the WTO agreements, which cover trade in multiple industries among 148 members. Most U.S. trade agreements, however, are bilateral, such as the U.S.-Singapore Free Trade Agreement. The number of trade agreements to which the United States is a party has grown significantly over the past 10 years. According to USTR data, the number of bilateral trade agreements grew nearly 50 percent in the last 10 years: from 176 in 1995 to 254 in 2004.⁴

Monitoring and enforcing trade agreements primarily involves four agencies and multiple units within each agency. USTR has primary statutory responsibility for implementation of U.S. international trade policy. In addition, the Departments of Agriculture, Commerce, and State make substantial contributions to federal monitoring and enforcement efforts, both by performing their own monitoring activities and by supporting USTR's efforts. Each of these agencies has both domestic and overseas components as well as multiple geographic-, industry-, and issue-specific units involved in monitoring and enforcement (see table 1).

³The WTO administers rules for international trade, provides a mechanism for settling disputes, and provides a forum for conducting trade negotiations.

⁴For more information about U.S. trade agreements, see appendix II.

Table 1: Key Federal Agencies That Participate in Trade Agreement Monitoring and Enforcement Efforts

| Agency | Monitoring and enforcement unit (headquarters) | Units performing monitoring and enforcement work overseas | Examples of other units involved |
|---------------------------|---|--|--|
| U.S. Trade Representative | Monitoring and Enforcement Unit | U.S. Mission to the WTO, and Trade Policy Officer, U.S. Mission to the EU | General Counsel; WTO and Multilateral Affairs; and region-specific offices |
| Commerce | Market Access and Compliance Office | Trade Promotion/ U.S. and Foreign Commercial Service, Market Access and Compliance overseas officers | Manufacturing and Services, Import Administration, Patent and Trademark Office |
| State | Trade Policy and Programs | Economic section of embassy | Country desk staff, issue-specific task forces |
| Agriculture | Foreign Agriculture Service | Foreign Agriculture Service | Animal and Plant Health Inspection Service, Food Safety and Inspection Service |

Source: GAO.

Agencies coordinate monitoring and enforcement activities through an extensive interagency network for trade policy development led by USTR and involving at least 17 other federal agencies.⁵ The structure for interagency monitoring and enforcement coordination flows from the Trade Policy Committee, which was established pursuant to Section 242 of the Trade Expansion Act of 1962.⁶ The Trade Policy Committee has two subordinate bodies—the Trade Policy Review Group, a management-level committee, and the Trade Policy Staff Committee, a senior-staff level committee subordinate to the Trade Policy Review Group. Two of the nearly 100 subsidiary bodies of the Trade Policy Staff Committee—the Monitoring and Enforcement Subcommittee and the Compliance Task Force—meet on a regular basis to discuss trade compliance issues. Other geographic and sectoral subcommittees are also involved in monitoring and enforcement efforts as part of their overall mandates.

⁵USTR works with the following federal agencies in monitoring and enforcement activities: the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Homeland Security, Interior, Justice, Labor, State, Transportation, and Treasury, as well as the Council of Economic Advisers, the Council on Environmental Quality, the Environmental Protection Agency, the Office of Management and Budget, and the U.S. Agency for International Development.

⁶19 U.S.C. 1872.

Trade agencies perform a number of monitoring and enforcement activities following the same general process. In a prior report, we described several key steps in monitoring and enforcing trade agreements and noted that communication is important throughout the process.⁷ The key steps we identified are

- *Identifying problems.* Agency officials rely on multiple sources for information about potential trade compliance problems. In general, the private sector is the most important source for information for identifying problems. Agency staff posted overseas are also a valuable source of information because of their involvement with both private sector and foreign government officials.
- *Setting priorities.* Agency officials prioritize among the multiple trade agreements and compliance issues needing their attention. There are some common factors that agencies apply when setting priorities, including the amount of U.S. trade, the trade principles at stake, and how quickly action needs to be taken.
- *Gathering and analyzing information.* Once agencies have identified potential problems, they gather and analyze a wide range of information about the allegation of noncompliance, such as documentation on foreign practices that may be inconsistent with trade obligations.
- *Developing responses.* Developing responses to compliance problems is a collaborative effort. Federal agencies take into account other agency views and private sector interests to develop the most appropriate U.S. response.
- *Taking enforcement action.* In some cases, the U.S. government can invoke formal dispute settlement procedures built into trade agreements or take other actions under U.S. trade law, such as increasing tariff levels on foreign imports. Since formal dispute settlement procedures are time-intensive, decisions to pursue these are always vetted through an interagency process that considers how such actions affect a broad range of U.S. interests.

⁷See [GAO/NSIAD-00-76](#).

The Number and Scope of Trade Agreements Have Grown, Thus Increasing the Monitoring and Enforcement Workload

In addition to the growing number of bilateral trade agreements, other key factors have increased the monitoring and enforcement workload for U.S. trade agencies. These factors include growth in WTO membership and the widening scope and complexity of trade agreements.

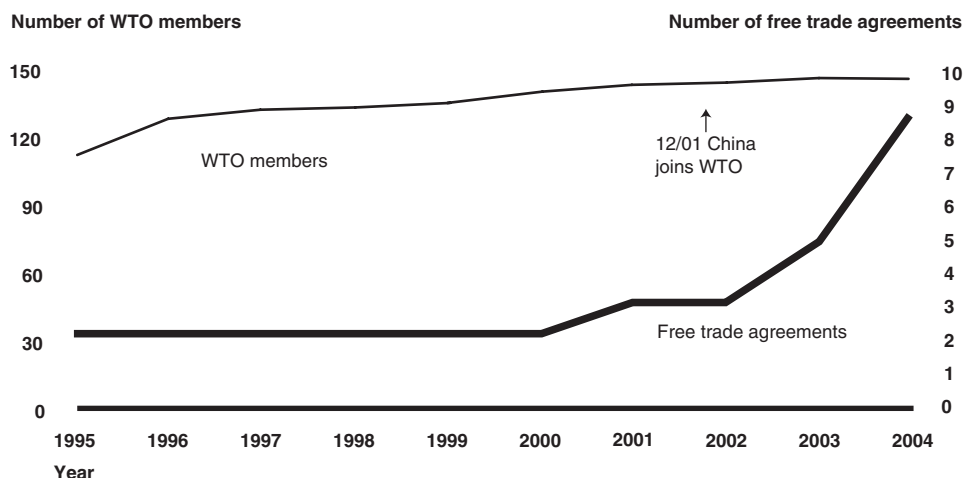
Increasing membership in key multilateral trade agreements, particularly WTO agreements, has significantly expanded agencies' monitoring and enforcement workload. WTO membership has grown by 36 countries (over 30 percent) to 148 members since 1995, and an additional 27 countries are in the accession process. The WTO's primary means of facilitating monitoring of the global trading system is through the WTO committee structure, which oversees implementation of each WTO agreement. This includes a requirement that each member file notifications of certain government actions, such as providing subsidies. Since agency officials must review these notifications, as the number of WTO members grows, so does the workload for trade agencies. The increase in WTO membership especially affects USTR's workload, because it is responsible for advocating and defending U.S. trade agreement rights and obligations within the WTO. To meet this and other responsibilities, USTR has posted 13 permanent staff and 14 detailees from other agencies or contractors to the U.S. Mission to the WTO in Geneva, Switzerland. The other key trade agencies are also affected by growing WTO membership. For example, China's December 2001 accession to the WTO required the four trade agencies to add staff resources to meet the demands of monitoring China's compliance with its WTO commitments.⁸ Officials from Agriculture told us they have assigned 3 staff members to monitor China's WTO notifications to ensure it is complying with the terms of its accession agreement. In addition, Commerce has dedicated more than 95 staff members (more than is dedicated to any other country or region) to monitoring China's compliance.

An additional reason for the increased workload is the widening scope of recent trade agreements. For example, FTAs, which cover a wide variety of areas including agricultural products, services, and intellectual property, are of growing importance to U.S. trade policy. As shown in figure 1, the

⁸The Chinese WTO accession agreement contains commitments in eight broad areas of China's trade regime—e.g., import regulations, agriculture, services, and intellectual property rights—covering nearly 700 individual commitments. These obligations include commitments to reduce tariffs on more than 7,000 products and remove 600 other restrictions.

United States has negotiated several new FTAs in recent years.⁹ Monitoring and enforcing free trade agreements requires intensive effort on the part of USTR and other trade agencies. For example, staff at the U.S. embassy in Singapore used a formal free trade agreement monitoring plan to track Singapore's efforts to implement the FTA and identify areas in which Singapore needed to take additional action to fully implement the terms of the agreement. Officials said that these efforts involved significant involvement by embassy staff throughout the year and a particularly large effort in advance of a joint U.S.-Singapore review of the operation of the agreement during its first year.

Figure 1: Growing Workload for Monitoring and Enforcing Trade Agreements



Source: GAO analysis of USTR and WTO data.

The federal government's monitoring and enforcement workload is also affected by the growing complexity of subjects covered in trade agreements. For example, USTR coordinates with other agencies to increase intellectual property protection around the world, including negotiating agreements that address intellectual property protection,

⁹Since 2000, the United States has negotiated FTAs with 12 countries. These countries are Australia, Bahrain, Chile, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Morocco, Nicaragua, and Singapore. Prior to 2000, the United States entered into FTAs with 3 countries—Canada, Israel, and Mexico.

which require monitoring and enforcement.¹⁰ Agency officials noted that they spend a significant amount of time attempting to resolve complex intellectual property rights issues. Foreign governments are increasingly using technical standards as trade barriers, which can require some specific technical knowledge to understand. To address such issues, Commerce has posted standards attachés in Mexico, Brazil, and at the U.S. Mission to the EU in Brussels, Belgium, specifically to try to help U.S. companies deal with complex standards related issues for a wide variety of products.

Trade Agencies' Ability to Identify and Address Potential Trade Agreement Violations Has Improved, Although Communication Needs Further Improvement

Trade agencies generally monitor market access issues that are brought to them by private industry or that they identify themselves. Once a market access or trade agreement compliance issue is identified, agencies attempt to resolve the problem as quickly and efficiently as possible.¹¹ Trade agencies have taken a number of steps to specifically address and improve their monitoring and enforcement capabilities. In particular, agencies have improved their coordination with one another and increased their investment in human capital. Although trade agencies have taken steps to improve their communication, it could be further improved because communicating important information on compliance issues is sometimes inefficient.

Trade Agencies Generally Monitor Market Access Issues and Use Trade Agreements as Leverage

Trade agencies generally monitor market access issues,¹² some of which may be covered by a trade agreement. They also monitor countries' compliance with certain specific trade agreements and will use trade

¹⁰For more information on U.S. efforts to improve intellectual property protection, see GAO, *Intellectual Property: U.S. Efforts Have Contributed to Strengthened Laws Overseas, but Challenges Remain*, [GAO-04-912](#) (Washington, D.C.: Sept. 8, 2004).

¹¹For examples of how trade agencies have handled some market access and compliance cases, see appendix III.

¹²For the purposes of this report, we use the term "market access issue" to include all barriers to U.S. exports to foreign markets, regardless of whether there is a trade agreement that relates to the barrier. We use the term "trade compliance issue" to refer to a barrier covered by the provisions of one or more trade agreement.

agreements as leverage for resolving a particular case.¹³ Efforts to monitor and enforce trade agreements are part of a larger effort to improve market access for U.S. exports. One part of these efforts is identifying and addressing trade barriers in foreign markets. To track such efforts, Commerce has created a database that includes all market access cases that Commerce staff work on, and it identifies those cases that are covered by a trade agreement.¹⁴ About half of the 161 cases Commerce staff initiated in fiscal year 2004 related to market access issues not covered by specific provisions of trade agreements. Most often, trade agencies become aware of these issues when a U.S. company comes forth with a complaint. These agency officials told us they then research the specifics of the issue, including whether it involves a potential violation of a specific trade agreement.¹⁵ If it does, the officials can then use the trade agreement as leverage for resolving the issue. For example, Commerce officials told us that U.S. construction companies that want to bid on construction projects in Japan often report having difficulty doing so because of strict regulations imposed by the government of Japan. Commerce's Trade Promotion/U.S. Foreign and Commercial Service (CS) staff in Japan therefore often use the terms of a bilateral trade agreement between the United States and Japan, the Major Projects Agreement, to encourage Japan to open up the bidding process.

Trade agencies' domestic staff also play a significant role in monitoring international market access issues. For example, CS has a network of export and industry specialists located in U.S. Export Assistance Centers throughout the United States. These U.S. Export Assistance Centers are one-stop shops ready to provide small or medium-sized businesses with local export assistance. One important function of these centers is to perform regular outreach to companies. Through this outreach, CS domestic staff are sometimes the first to hear about potential market access issues.

¹³Commerce has identified specific individuals to serve as Designated Monitoring Officers who serve as the primary point of contact for inquiries regarding trade agreement. According to Commerce, these officers are experts on their assigned agreements.

¹⁴Commerce is the only trade agency that maintains a database that tracks market access issues, including compliance with trade agreements.

¹⁵For additional information on the U.S. government's process for monitoring and enforcing trade agreements see USTR, *Coordinating the Interagency Monitoring and Enforcement of Trade Agreements: Report to the Senate and House of Representatives Committees on Appropriations* (Washington, D.C.: 2004).

Several large U.S. companies told us they often prefer to work directly with foreign governments to try to resolve market access issues. If these efforts are unsuccessful, they may request assistance from the U.S. government. In those instances, the companies with which we spoke were highly satisfied with the efforts of the U.S. government in addressing their complaints. At times, however, companies turn to the U.S. government only as a last resort or ask the U.S. government not to get involved in certain issues. Companies told us this was particularly the case in those countries where association with the U.S. government might be seen as more of a detriment than an aid. For example, several private sector representatives from large U.S. companies operating in Europe told us that they typically attempt to resolve compliance issues with European governments without help from the U.S. government. In France, for example, a private sector representative told us that negative public sentiment toward the U.S. government makes some U.S. companies shy away from U.S. government assistance on trade issues.

Trade agencies also proactively identify new market access issues and monitor developments regarding long-standing trade issues as a part of their overall efforts to improve market access for U.S. exporters. At the overseas posts we visited, we observed that agencies' overseas staff play a large role in these efforts by monitoring local political and economic developments and engage in such activities as daily monitoring of the local press and reviewing official government publications. For example, a Foreign Agricultural Service (FAS) official in Turkey is assigned to review the Turkish government's daily publication of newly proposed regulations in order to identify any proposals that may affect U.S. agricultural exports. Overseas staff also try to maintain good contact with their foreign government counterparts, so as to stay informed of foreign government activities. In addition, Foreign Service Nationals (FSNs) often play an invaluable role in proactive monitoring.¹⁶ With their institutional knowledge and expertise, FSNs may be the best positioned staff to identify a potential market access issue and monitor long standing trade issues. Moreover, at some posts the FSNs are the only staff an agency may have in the country to carry out monitoring activities. For example, the Agricultural Attaché who covers Romania is posted in Bulgaria. Although he makes frequent visits to Romania, FSNs employed by USDA must deal with the day-to-day monitoring of agricultural trade issues in Romania.

¹⁶Foreign Service Nationals are non-U.S. citizens employed to work in U.S. embassies and consulates throughout the world.

In addition, agencies also proactively monitor countries' compliance with some trade agreements, often because the issues are particularly important to U.S. exporters or because of requirements in the agreements. For example, since trade with Japan is important to U.S. exporters, the United States and Japan have an agreement that requires annual talks to discuss ongoing trade issues of interest to both countries. In addition, trade agencies are involved in periodic WTO reviews of each member's overall trade policy as a part of the WTO's Trade Policy Review Mechanism. Some other agreements such as FTAs also include built-in structures for monitoring compliance. For example, the U.S.-Singapore FTA requires the countries to meet periodically in order to review implementation progress by both sides and discuss any issues that have arisen.

USTR is also required by domestic law to prepare a variety of trade-related reports that assist it in its efforts to monitor and enforce trade agreements. These requirements range from providing broad trade policy objectives and plans to reporting on specific issues or sectors. For instance, USTR's required reports include

- *The Annual Report on the Trade Agreements Program.* USTR, in consultation with other agencies, prepares this broad report, which includes, among other things, discussion of foreign trade restrictions against U.S. exports.
- *The National Trade Estimate Report on Foreign Trade Barriers.* This report identifies and estimates the impact of foreign barriers to U.S. exports.
- *Special 301 Report.* USTR is required to identify those countries that deny adequate and effective protection for intellectual property rights, or fair and equitable market access for U.S. persons that rely on intellectual property protection.
- *The Annual Review of Telecommunications Trade Agreements.* USTR also reports on individual sectors, such as telecommunications. This particular report reviews the operation and effectiveness of U.S. telecommunications trade agreements and determines whether foreign countries are complying with the terms of these agreements.

Trade Agencies Can Employ a Variety of Approaches to Attempt to Resolve Market Access and Compliance Issues

Once trade issues have been identified, agencies can employ a variety of tools to attempt to resolve them, depending on the context. This includes using overseas staff to take both informal and formal actions. Staff will attempt to resolve an issue by calling their foreign government counterparts to discuss the issue. In Korea, for instance, embassy officials work very closely with the Ministry of Foreign Affairs and Trade on standards issues. For example, the Korean government is currently considering switching its automobile license plates to a size that would require American car manufacturers to alter their vehicles. In response, embassy officials set up meetings of standards experts from the ministry, industry, and the U.S. government to try to prevent damaging regulations from being issued. If this type of initial low-level action does not resolve the issue, agency officials may send a letter to a foreign government official in the relevant ministry. If unsuccessful, they may send a formal letter on behalf of the U.S. government (called a *démarche*) requesting that the government take specific action.

While trade agency officials state they try to resolve an issue at the lowest level possible, they also look to use the most efficient means possible. Sometimes the most efficient way to solve a problem is through the immediate involvement of senior officials to raise the visibility of the issue. Thus, agencies use visits by senior officials as leverage to attempt to resolve trade issues. For example, the United States and Japan engage in annual trade talks involving senior government officials. These talks provide a good opportunity for senior U.S. officials to discuss unresolved trade issues with their Japanese counterparts.

A particularly contentious issue may require additional intervention by more senior U.S. officials. In a recent dispute, for instance, the European Union (EU) had proposed a regulation that would require wood packaging material such as boxes, pallets, and crates to be made from debarked wood to ensure no pests or fungi in the wood packaging could be spread to Europe. This could have hurt U.S. companies exporting to the EU using methods that were consistent with the international standard for the treatment of wood packaging material rather than packaging material made from debarked round wood required by the EU.¹⁷ The industry turned to the U.S. government for assistance, and the issue progressively made its

¹⁷U.S. companies do not use debarked wood pallets, claiming that the internationally agreed upon measures that they follow for treating softwood logs and timber adequately eradicate all pest and fungi.

way up the government hierarchy, eventually resulting in letters from both the Secretaries of Agriculture and Commerce and the U.S. Trade Representative to their European counterparts. The European Commission agreed to postpone the new rules for 1 year, to give experts time to discuss technical aspects of debarking.

The U.S. government can also use an international forum to try to resolve a compliance issue. For instance, the United States has utilized the Joint Commission on Commerce and Trade in an attempt to resolve some of China's WTO compliance problems. At the April 2004 meeting of this government-to-government consultative forum, the U.S. and Chinese governments discussed key trade issues and formed working groups; signed several memoranda of understanding and letters of intent; and reached several more specific agreements to improve China's implementation.¹⁸

When necessary, the U.S. government can use domestic law and established dispute settlement mechanisms to enforce trade agreement obligations. U.S. trade law provides several opportunities for taking action to ensure countries' compliance with trade agreements. For instance, Section 301 of the Trade Act of 1974 allows the U.S. government to increase duties on imports from foreign countries found to be in violation of a trade agreement they have entered into with the United States. In addition, some trade agreements, such as the North American Free Trade Agreement and the WTO, also include binding dispute settlement mechanisms to which members can take their disputes.¹⁹ For example, since 1995, the United States has brought 79 cases against other WTO members for alleged violations of WTO agreements.

¹⁸For additional information on the Joint Commission on Commerce and Trade, see GAO, *U.S.-China Trade: Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments*, [GAO-05-53](#) (Washington, D.C.: Oct. 6, 2004).

¹⁹For additional information on WTO dispute settlement, see GAO, *World Trade Organization: U.S. Experience to Date in Dispute Settlement System*, [GAO/NSIAD/OGC-00-196BR](#) (Washington D.C.: June 14, 2000); *World Trade Organization: Issues in Dispute Settlement*, [GAO/NSIAD-00-210](#) (Washington D.C.: Aug. 9, 2000), and *World Trade Organization: Standard of Review and Impact of Trade Remedy Rulings*, [GAO-03-824](#) (Washington, D.C.: July 30, 2003).

Trade Agencies Have Taken Steps to Improve Coordination and Enhance Human Capital for Monitoring and Enforcement Activities

Since we reported on the monitoring and enforcement process in 2000, trade agencies have taken a number of measures to improve their monitoring and enforcement activities. These measures fall into two general categories: coordination and enhancing human capital.

Coordination

To improve interagency coordination, agencies created formal structures within the Trade Policy Staff Committee specifically for the purpose of discussing compliance issues. The Monitoring and Enforcement Subcommittee and the Compliance Task Force each provide a regular forum for federal agencies to share and discuss information, set priorities, assign responsibilities, and design and implement strategies. In addition, some overseas posts have instituted both formal and informal interagency trade compliance teams to coordinate monitoring and enforcement efforts abroad and in Washington, D.C. In Morocco, for example, agencies established a formal, embassy-wide committee to discuss issues related to the FTA. The committee meets on an as-needed basis, although it plans to revive the weekly meetings once FTA implementation begins.²⁰ Trade agencies have also attempted to improve coordination by taking advantage of technology. For instance, officials in Washington and several overseas posts noted that since GAO reported on trade compliance in 2000, e-mail and video-teleconferencing have become important tools for communicating information on trade compliance issues.

Trade agencies have also attempted to improve coordination with the private sector. This is particularly true with regard to the formal private sector advisory committees that USTR relies on for input on important trade issues. Following a GAO report recommending improvements in the private sector advisory committee structure, trade agencies made several changes to the system.²¹ For instance, USTR now holds monthly teleconference calls with all advisory committee chairs and e-mails updates to advisors on important U.S. trade initiatives. In addition, Commerce has

²⁰The government of Morocco ratified the FTA in January 2005. As of April 2005, U.S. officials were awaiting the King's signature and the exchange of notes between USTR and the government of Morocco before the agreement goes into effect.

²¹GAO, *International Trade: Advisory Committee System Should Be Updated to Better Serve U.S. Policy Needs*, GAO-02-876, (Washington, D.C.: Sept. 24, 2002).

increased its outreach efforts by holding private sector advisory committee meetings outside of Washington, D.C.; speaking to domestic trade associations and overseas American Chambers of Commerce; and coordinating trade shows and events with its U.S. Export Assistance Centers. Commerce also sponsors a Compliance Liaison Program to help U.S. exporters overcome trade barriers, identify problems in overseas markets, and solicit new compliance cases.²²

Human Capital

Trade agencies have also taken measures to enhance their human capital resources for monitoring and enforcing trade agreements in several areas. For instance, some agencies have instituted trade- and compliance-targeted training for their officers. One such example is the week-long core trade agreement monitoring and implementation course that State began offering in 2002. The course covers elements of major trade agreements (focusing on the WTO) and U.S. trade laws. The course has been offered about five times a year, four times at State's training facilities in Virginia and once overseas. Each class accommodates approximately 30 officials, predominately from State but with a few officials from other agencies as well. Commerce also offers a similar trade agreement compliance course for officials involved in monitoring trade agreements.

In addition to the formal trade compliance training discussed above, Commerce and State offer additional formal and informal training opportunities to officials with monitoring and enforcement responsibilities. For instance, portions of other formal State training courses on issues such as intellectual property rights and telecommunications directly or indirectly train staff to monitor trade agreements. Commerce also provides additional informal training related to trade agreements through videoconferences and teleconferences.

Commerce recently addressed human capital issues for monitoring trade agreements by revising performance guidelines to clarify when staff can report performance data based on market access and compliance work. The current guidelines, implemented in April 2005, allow staff to take credit for the removal, reduction, or alleviation of a market access barrier whether or not an export sale immediately follows. CS officers told us that previously, they did not receive credit for the results they were achieving

²²The Compliance Liaison Program is a public/private partnership that consists of 250 congressional offices, 96 trade associations, 71 District Export Councils, 53 state government offices, and 26 other business or trade organizations.

from monitoring trade agreements because they could not be directly tied to increased exports.

Furthermore, some trade agencies have placed policy experts in overseas posts, in part to help monitor and enforce trade agreements. For instance, Commerce has, for the first time, posted four Market Access and Compliance (MAC) officers and three standards attachés overseas.²³ A number of trade agency officials—who must divide their attention among multiple job priorities—told us these officials serve as an invaluable resource, as they dedicate their time almost solely to market access, compliance, and standards issues. In China, for example, intellectual property rights violations are a common problem that U.S. trade agency officials must resolve.²⁴ To attempt to address this issue, the U.S. Patent and Trademark Office has stationed a patent attorney in China to provide specialized support on intellectual property rights issues.

Exchanging Information on Trade Issues Is Sometimes Inefficient

While trade agencies' overall coordination has improved since our 2000 report, communication is still sometimes inefficient. According to agency officials with whom we met, the trade agencies generally coordinate their monitoring and enforcement efforts well at various levels: within headquarters, between headquarters and posts, and within posts. Opportunities exist, however, for further improvement in agency communication regarding compliance issues.

Communication between Commerce and State, for example, can be difficult, because of Commerce's limited access to the classified communication systems that State sometimes uses to exchange information on trade issues.²⁵ Both Commerce and State officials told us that not all the information transmitted on classified systems is, in fact, classified; however the agencies disagree on the extent to which this

²³According to Commerce, a fourth standards attaché position has been approved and will be posted in Beijing, China, in August 2005.

²⁴See [GAO-05-53](#).

²⁵State officials noted that while the use of classified communication systems has increased in recent years, this is not necessarily its primary means of communicating information on trade issues.

occurs.²⁶ According to State, information regarding trade issues rarely appears on the classified email system. Commerce, however, believes that unclassified information that might be utilized in compliance work may be frequently transmitted over the classified email system. Regardless of the amount of unclassified information sent over classified systems, Commerce officers at headquarters have no access to classified information from their desktop computers. Some other officials told us that they had trouble obtaining classified information on compliance issues on which they were working. In order to read classified e-mails or cables, they must go to a secure reading room. Commerce is in the process of obtaining access to the secure system for email used by State, but a Commerce official told us this process has already taken more than four years.

Some overseas officials also experience obstacles to accessing classified information. At the U.S. Mission to the European Union, for example, CS officers do not have the means to access classified systems in the Commercial Section of the Embassy. They must go to a different floor of the embassy and enter a secure area to obtain access to classified systems. In addition, FSNs, who we observed play a key role in monitoring and enforcement activities, cannot have access to classified systems because they do not have appropriate security clearances. Furthermore, at some posts the various trade agencies are not located in the same building, or sometimes even the same city, making communication more difficult still. In Korea, for example, only one Commerce computer allows access to State's classified system, yet CS has officers that are located in satellite offices separate from the embassy. Some officials overseas said that while they could obtain all the information they needed, inefficiencies in obtaining information and guidance from officials in Washington sometimes affected their monitoring and enforcement activities.

²⁶State officials told us that even though the information may not be classified, State staff use classified systems to send some information in order to protect the sources of the information.

Despite Growing Demands on Agency Resources, the U.S. Government Lacks a Coordinated Resource Strategy for Monitoring and Enforcing Trade Agreements

Agency resources for monitoring and enforcing trade agreements face growing demands, but USTR, Agriculture, Commerce, and State independently assess and plan for resource needs. Despite these demands, the U.S. government lacks a coordinated strategy for assessing and planning for resource needs for monitoring and enforcement activities.

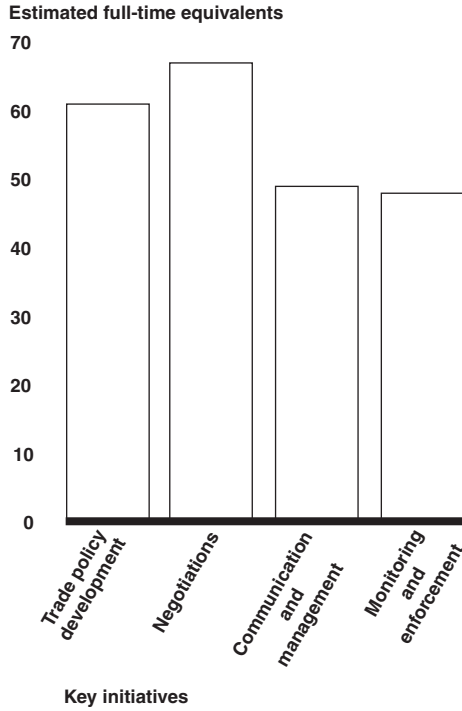
Trade Agencies Face Significant and Growing Resource Demands

Trade agencies face growing demands on their resources for handling their monitoring and enforcement workloads. Since monitoring and enforcing trade agreements is only one activity undertaken by trade agencies, resources for monitoring and enforcement face competition from other trade activities, such as negotiating new agreements. Further, tight budgets and growing costs in recent years constrained staffing levels. In addition, agencies sometimes face constraints to developing and accessing necessary expertise such as limited training.

Monitoring and enforcement activities face growing competition from other trade activities for resources

Staff from USTR, Agriculture, Commerce, and State perform a variety of trade activities, only one of which is monitoring and enforcing trade agreements. Each trade agency therefore allocates its own resources among these various activities. For instance, USTR has categorized its responsibilities as the lead U.S. trade agency into four areas—trade policy development, negotiations, communication and management, and monitoring and enforcement. As shown in figure 2, USTR estimates in its *Fiscal Year 2005 Performance Plan* under the Government Performance and Results Act that about 50 (or about 22 percent) of its 225 full-time equivalents are needed to support its monitoring and enforcement activities.

Figure 2: USTR Estimates of the Numbers of Staff Needed to Support Key Initiatives, 2005



Source: USTR Fiscal Year 2005 Performance Plan.

One area with which monitoring and enforcement activities must compete for resources is the negotiation of new trade agreements. Since the passage of Trade Promotion Authority in 2002,²⁷ trade agencies have been heavily involved in supporting numerous negotiations. These have included the WTO's Doha Development Agenda, the Free Trade Area of the Americas, and other FTAs. Since 2000 alone, the United States has completed negotiations on free trade agreements with 12 countries, and negotiations

²⁷Title XXI of the Trade Act of 2002, Pub. L. No. 107-210.

are under way or about to begin with 12 more countries.²⁸ These negotiations require significant amounts of staff time and resources. This can have an effect on monitoring and enforcement activities because oftentimes the same units contributing to negotiating new agreements also monitor existing agreements. In addition, once FTAs are completed, trade agencies then must devote significant resources to monitoring countries' compliance with these new agreements, thus adding further to the workload.

U.S. Trade with FTA Partners

As of 2004, about 43 percent of U.S. exports were to countries with which the United States has negotiated an FTA. The vast majority (82 percent) of these exports (or 35 percent of total U.S. exports) were to NAFTA countries. Exports to countries with which the United States has completed FTA negotiations since 2000 account for 7 percent of total U.S. exports.

Exports to the 12 countries the United States is currently or will soon be negotiating FTAs with accounted for 3 percent of U.S. exports in 2004.

Trade agency officials told us they do not expect to receive significantly more resources for monitoring and enforcing trade agreements. Commerce officials said that as the Administration attempts to meet its goal of reducing the federal budget deficit, they expect to receive few, if any, additional resources for monitoring and enforcing trade agreements. Likewise, USTR's fiscal year 2006 budget request includes no increase in staffing levels. In addition, Agriculture anticipates having fewer resources because of tight budget conditions.

Units responsible for monitoring and enforcing trade agreements also typically have multiple additional responsibilities. For instance, staff in MAC regional units are also responsible for other tasks, including

- providing technical knowledge and detailed expertise to support trade negotiations;
- participating in international trade conferences, events, and missions to assess trade barriers; and
- providing technical knowledge and expertise in support of senior level contacts with foreign government officials.

Staff at the overseas posts we visited reported spending significantly varying proportions of their time on monitoring and enforcement efforts. Some staff at posts in Japan and the EU reported spending most or almost all of their time on such activities. In contrast, staff in some other posts reported spending little, if any, time on these activities. Overseas units with monitoring and enforcement responsibilities also typically have additional

²⁸These countries are Botswana, Colombia, Ecuador, Lesotho, Namibia, Oman, Panama, Peru, South Africa, Swaziland, Thailand, and the United Arab Emirates.

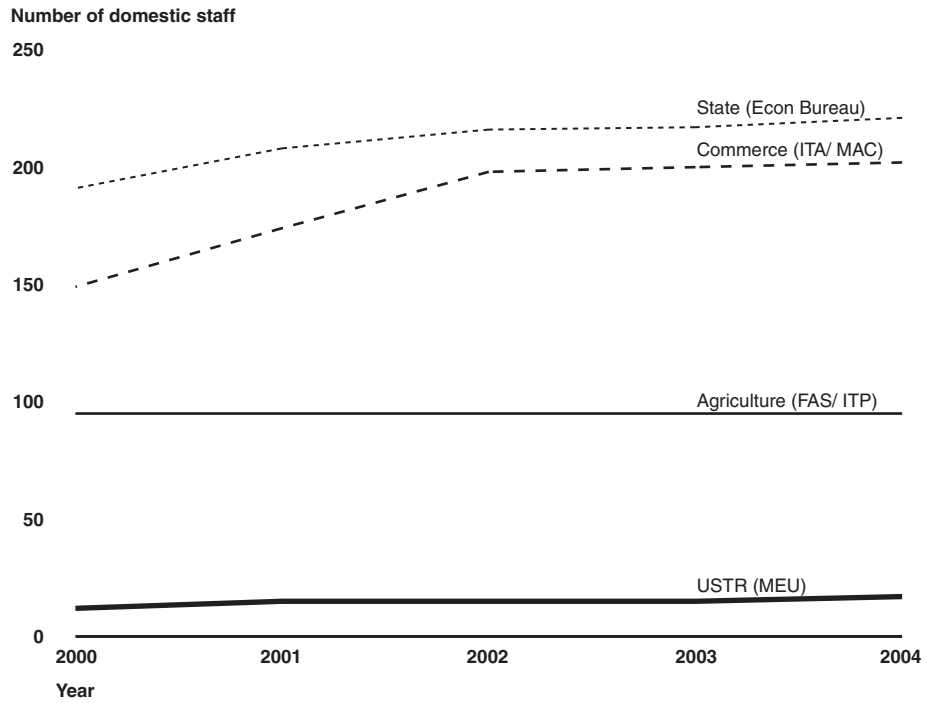
responsibilities related to improving the ability of U.S. companies to export their products. For example, Agriculture's FAS overseas officers also

- prepare reports on changes in policies and other developments that could affect U.S. agricultural exports;
- assess U.S. export marketing opportunities; and
- respond to the information needs of those who develop, initiate, monitor, and evaluate U.S. food and agricultural policies and programs.

Staffing Levels Face Significant Constraints

As discussed earlier, the monitoring and enforcement workload has increased significantly in recent years. However, since 2002, staffing levels in trade agency units with primary monitoring and enforcement responsibility have not increased significantly. While the number of staff in Commerce's MAC unit and State's Economic and Business Affairs Bureau grew substantially between 2000 and 2002, the number has grown little since then. As shown in figure 3, total staff levels in key trade agencies' primary monitoring and enforcement units has been essentially static since 2002.

Figure 3: Domestic Staff in Key Monitoring and Enforcement Units



Sources: GAO analysis of Agriculture, Commerce, State, and USTR data.

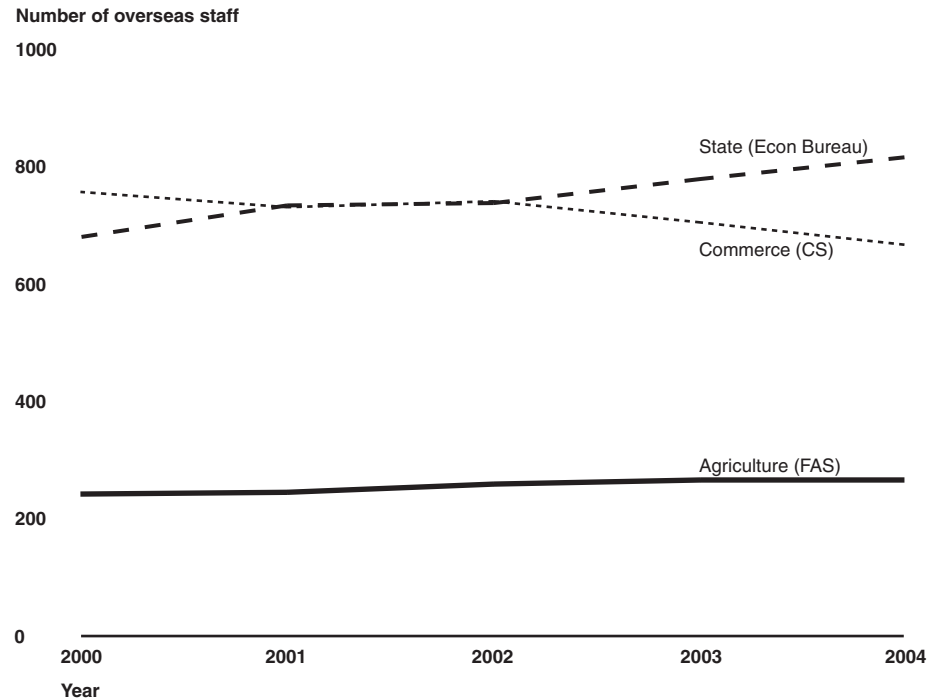
Note: State data represent the number of staff in the Bureau of Economic and Business Affairs. Commerce data represent the number of staff in the International Trade Administration’s Market Access and Compliance unit. Agriculture data represent the number of staff in the Foreign Agriculture Service’s International Trade Policy unit. USTR data represent the number of staff in the Monitoring and Enforcement Unit.

Some trade agencies have faced particular constraints to overseas staffing in recent years. As shown in figure 4, the number of overseas staff in key monitoring and enforcement units in Agriculture and Commerce has been relatively steady or has declined since 2000.²⁹ For instance, the number of CS staff has declined by more than 10 percent, from more than 750 in 2000 to less than 670 in 2004.³⁰

²⁹The number of State economic officers has increased since 2000, but State officials noted that if other agencies reduce their number of staff overseas, the workload for State officials will increase.

³⁰These data include Commercial Service Officers and Foreign Service Nationals.

Figure 4: Overseas Staff in Key Monitoring and Enforcement Units



Sources: GAO analysis of Agriculture, Commerce, and State data.

Notes: State data represent the number of economic officers. Commerce data represent the number of staff in the Trade Promotion/U.S. and Foreign Commercial Service. Agriculture data represent the number of staff in the Foreign Agriculture Service. Data for Commerce and Agriculture include U.S. officers and Foreign Service Nationals. Commerce has posted four MAC officers overseas since 2002. USTR has also posted about 30 staff at the U.S. Mission to the WTO and one staff person to the U.S. Mission to the European Union.

In addition, some Agriculture and Commerce overseas staff are responsible for overseeing activities in several countries other than the one in which they are posted. For example, the Commercial Counselor posted in Turkey oversees Commerce operations in five other countries; as a result, he spends a significant portion of his time traveling, thus reducing the amount of time he can devote to his monitoring and enforcement responsibilities in any single country.

The growing costs associated with maintaining an overseas presence in an era of heightened security concerns may cause some agencies to scale back their future overseas monitoring and enforcement efforts. For instance, the cost of shared administrative expenses and accelerated embassy construction schedules have contributed to the growing costs to each agency of maintaining an overseas presence. Costs for overseas administrative support services are distributed among 50 agencies through the International Cooperative Administrative Support Services system. These costs rose nearly 30 percent from fiscal year 2001 to 2003, when they reached a level of about \$1 billion.³¹ In addition, agencies share the cost of constructing new embassies and consulates. The \$17.5 billion required to construct overseas facilities through 2018 will be allocated proportionally to each agency based on the number of staff the agencies have in overseas posts worldwide. For instance, Commerce's assessment is expected to increase from \$4.5 million in 2005 to \$40.2 million annually in 2009 through 2018, and Agriculture's assessment is expected to increase from \$0.6 million in 2005 to \$16.3 million annually in 2009 through 2018.³² Some agencies are concerned these increases could affect their ability to accomplish their overseas missions. Officials from Agriculture and Commerce have stated that without additional funding, their agencies would have to cut their overseas staff and some ongoing activities at numerous locations. For example, we have previously reported that Commerce has projected that it may have to close offices at as many as 51 of its 152 overseas posts by 2009, reducing staff levels by 498 persons.

Trade Agencies Face Constraints to Developing and Accessing Necessary Expertise

Effectively monitoring and enforcing trade agreements requires significant expertise, but agencies face constraints to developing and accessing such expertise. Monitoring and enforcing trade agreements typically involves staff with expertise in trade policy as well as staff with knowledge about the foreign country and expertise in the particular industry. One way to develop the additional trade policy expertise necessary to monitor and enforce increasingly complex trade agreements is through training, which Commerce and State in particular have worked to improve. However, officials in all eight countries we visited told us that additional training on

³¹GAO, *Embassy Management: Actions Are Needed to Increase Efficiency and Improve Delivery of Administrative Support Services*, [GAO-04-511](#) (Washington, D.C.: Sept. 7, 2004).

³²GAO, *Embassy Construction: Proposed Cost-Sharing Program Could Speed Construction and Reduce Staff Levels, but Some Agencies Have Concerns*, [GAO-05-32](#) (Washington, D.C.: Nov. 15, 2004).

monitoring and enforcing trade agreements would help them fulfill their responsibilities in this area more effectively.

Many staff responsible for monitoring and enforcement activities have not yet attended State's Foreign Service Institute's trade agreement compliance training. This course was developed by USTR, Agriculture, Commerce, and State in response to a GAO recommendation regarding the need to improve staff training for monitoring and enforcing trade agreements.³³ The agencies' stated goal was to offer trade compliance training to monitoring and enforcement staff of all agencies assigned overseas and in Washington, D.C. While the exact number of U.S. government personnel responsible for monitoring and enforcing trade agreements is hard to determine precisely, in reporting to Congress,³⁴ Commerce estimated that it devotes 602 staff, Agriculture estimated devoting 222 staff, and State estimated devoting 775 staff to goals that include monitoring and enforcement activities. However, in the 5 years since our recommendation, approximately 450 officials (or less than 30 percent of the nearly 1,600 staff identified above) had taken the course; the vast majority (84 percent) of which were from State. According to officials responsible for facilitating the course, Commerce staff have accounted for about 15 percent of the course attendees, and Agriculture staff less than 1 percent.

In addition, not all staff at overseas posts have been able to attend monitoring and enforcement training. State has made efforts to target its trade agreements compliance course to staff in need of the training by offering the class at overseas posts. However, even when the course was offered overseas, some interested staff were not able to attend. For instance, Commerce staff in Japan told us that when State arranged for the course to be taught in the Tokyo embassy, Commerce staff did not attend because Commerce would have had to reimburse State for the tuition.³⁵ In addition, despite Commerce efforts to offer training courses on trade compliance, staff who have not received such training include those posted in key U.S. trading partners like Mexico, where Commerce staff have

³³See [GAO/NSIAD-00-76](#).

³⁴Office of the U.S. Trade Representative, *Coordinating the Interagency Monitoring and Enforcement of Trade Agreements: Report to the Senate and House of Representatives Committees on Appropriations* (Washington, D.C.: 2004).

³⁵In another overseas post (Beijing, China), Commerce staff were able to participate in the course without paying tuition to State because Commerce staff provided the classroom and administrative support for the course.

received no formal training on monitoring and enforcing trade agreements from fiscal year 2000 to date.

Similarly, FAS staff have been offered no formal training on monitoring and enforcing trade agreements. FAS officials noted that this is due in large part to the fact that the agency has a very limited training budget. In 2005 its \$2 million budget for training provides, on average, \$150 per employee to build subject matter expertise. FAS officials added that they try to minimize the effect of this constraint by spending 1 or 2 days focusing on trade compliance issues at regional meetings of FAS overseas staff.

Although the four trade agencies worked together to design the Foreign Service Institute course, recent efforts suggest a lack of coordination. For instance, State and Commerce separately contracted with the same company to provide training on trade agreement compliance to their staff. State pays the contractor \$15,000 to teach a 5-day course discussed earlier for about 30 students, thus equaling an average cost of \$100 per student per day. Commerce contracted with the same company to teach several 3-day courses covering similar material, at a cost of \$25,000 per class. According to Commerce records, about 30 Commerce staff attended one such class, thus equaling an average cost of about \$275 per student per day for that class.

In addition, while input from staff with specialized legal, technical, or scientific knowledge may be necessary, depending on the nature of the issue, agencies face limitations in accessing this expertise. Trade agency officials told us that as trade agreements cover an increasingly broad set of issues including regulatory issues, they are increasingly relying on staff with specialized technical and scientific expertise. For instance, officials from FAS rely heavily on officials in Agriculture's Animal and Plant Health Inspection Service (APHIS) and Food Safety Inspection Service (FSIS) to handle complex issues relating to the WTO's Agreement on Sanitary and

Phytosanitary Standards.³⁶ According to APHIS and FSIS officials, the amount of work they perform to support FAS' monitoring and enforcement of trade agreements has grown steadily over time, and they have tried to dedicate sufficient resources to such activities. However, both these agencies' primary missions are focused on U.S. public and agricultural health.³⁷ Officials from both agencies told us that given existing resource constraints, they must place primary emphasis on allocating resources to their primary mission areas. USTR officials also told us that similar issues face the Food and Drug Administration (FDA). USTR has utilized the expertise of FDA officials for handling a variety of trade issues, most notably, trade in biotechnology products. Several countries have blocked U.S. exports of biotechnology products, and FDA officials have helped USTR attempt to dismantle these barriers by supplying scientific research and analysis demonstrating that such products do not pose a health risk. However, USTR noted that it realizes that FDA's dedication of significant resources to these efforts has caused it to make trade-offs with other activities.

U.S. Government Lacks a Mechanism and Coordinated Strategy for Assessing and Planning Future Resource Needs

While trade agencies have established formal mechanisms and a strategy for coordinating on trade policy issues, no such formal mechanism or strategy exists for coordinating agency resource planning efforts for trade activities. Agency officials told us that USTR, which leads this formal interagency structure, holds regular discussions to develop trade policy strategy. However, officials from all four key trade agencies told us that the formal interagency process is not used to assess or plan for future resource needs for trade activities in general or monitoring and enforcing agreements specifically. Instead, each agency independently assesses its resource needs for fulfilling its mission.

While trade agencies have previously recognized that effectively monitoring and enforcing trade agreements requires developing a strategy for coordinating their respective resources, they have not done so since 2001. At that time, the Administration recognized the need for an integrated

³⁶Sanitary and phytosanitary standards are measures taken to protect animal and plant health.

³⁷APHIS is responsible for protecting and promoting U.S. agricultural health, administering the Animal Welfare Act, and carrying out wildlife damage management activities. FSIS is responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged.

approach to improving U.S. capacity to monitor and enforce trade agreements rather than having each agency address its capacity independently. This approach, coordinated by the National Economic Council, led interagency discussions aimed at enhancing coordination in this area and increasing funding to bolster expertise in key trade agencies. This initiative proposed a \$22 million increase in the resources for Agriculture, Commerce, State, and USTR. Following this initiative, USTR agreed to continue to work with other agencies to assess the monitoring and enforcement workload and the resources needed to address it. However, trade agency officials told us that no such coordinated, comprehensive effort has taken place since then.

Trade agency officials told us they recognize the need to coordinate their resources and have taken some steps to address this need.³⁸ However, these efforts did not include involving all trade agencies in developing a comprehensive interagency strategy for resource planning. State officials told us that they recognize the importance of coordinated resource planning and in the past have invited officials from trade agencies to meetings at which the Bureau of Economic and Business Affairs justifies its budget request to the Deputy Secretary of State. State officials told us that the Deputy Secretary often asks officials from other trade agencies whether they have any issues with the bureau's requested resources, especially regarding the posting of overseas staff. Commerce and State officials also told us that there have been recent discussions regarding coordinating their resources for handling commercial issues in other countries. However, these efforts focused on overseas posts where Commerce has no staff.

³⁸According to USTR, the most recent interagency effort regarding resources for monitoring and enforcing trade agreements was in response to a 2004 congressional mandate. In this effort, USTR surveyed all the Trade Policy Staff Committee subcommittees regarding their efforts to monitor and enforce trade agreements and the resources necessary to undertake these efforts.

Officials from all four trade agencies told us that there is currently no comprehensive interagency strategy regarding resources for monitoring and enforcement efforts. We have previously reported that without sufficient interagency coordination, scarce funds can be wasted and the overall effectiveness of the federal effort is limited.³⁹ We have also previously reported that agencies lack coordinated resource planning for trade activities.⁴⁰ In that report, we found that USTR relies heavily on other trade agencies to staff negotiating teams but lacks a systematic approach for addressing resource issues because formal interagency meetings do not include any detailed discussion of these issues. Agencies reported that while they have been able to meet USTR's needs, doing so has complicated their own resource planning efforts and sometimes strained their resources. We also found that at times it was necessary for agencies to make trade-offs. For instance, according to Department of the Treasury officials, they have had to "perform triage" on some operations because of the heavy negotiating workload. We recommended that USTR work with other trade agencies to develop more systematic data and plans for allocating staff and resources across the full U.S. trade agenda, including FTAs and other negotiating priorities. The Trade Representative disagreed with our recommendation, stating that in his view the straining of resources by an ambitious negotiating agenda is mainly caused by the amount of resources available, not their allocation. We responded that given limited resources, USTR needs to develop a resource strategy based on solid data and planning and coordinate with other agencies whose resources USTR routinely calls upon during the course of negotiations. Without coordinated resource planning for shared functions, each agency's individual resource planning efforts are more difficult, and the government's ability to effectively utilize the unique talents and skills of each agency can be limited.

Conclusions

The steps that trade agencies have taken to monitor and enforce trade agreements since we last reported on U.S. government efforts, such as the creation of formal structures to coordinate agency efforts, have helped to increase the attention trade agency officials focus on ensuring other

³⁹GAO, *Managing for Results: Barriers to Interagency Coordination*, [GAO/GGD-00-106](#) (Washington, D.C.: Mar. 29, 2000).

⁴⁰GAO, *International Trade: Intensifying Free Trade Negotiating Agenda Calls for Better Allocation of Staff and Resources*, [GAO-04-233](#) (Washington, D.C.: Jan. 12, 2004).

countries comply with their trade agreement obligations. However, as the monitoring and enforcement workload continues to increase without commensurate increases in resources, USTR, Agriculture, Commerce, and State will find it more difficult to ensure countries comply with trade agreements while also fulfilling their other trade responsibilities. For example, unless agencies address communication issues, they may miss opportunities to open foreign markets to U.S. exports. In addition, to the extent that some trade agency officials, including those posted in important trading partner countries, are not adequately trained to effectively monitor and enforce complex and technical trade agreements, they cannot provide effective service to U.S. exporters that face barriers in foreign markets.

As we have noted in previous reports, without interagency coordination on resource assessments and planning, fulfilling future monitoring and enforcement responsibilities will be even more difficult. Agencies have recognized the importance of assessing human capital needs in a strategic way, as in the National Economic Council-led effort in the early 2000s that resulted in a more coordinated human capital approach. However, the benefits of this concept have not been institutionalized or applied in a broader trade context for all monitoring and enforcement activities. In an environment of growing workloads and static or declining resources—particularly in vital overseas posts—lack of an interagency coordination strategy regarding resource planning means that the federal government cannot be assured that its limited resources are sufficiently prioritized or targeted at the areas of greatest risk.

Recommendations

In order to improve efforts to monitor and enforce trade agreements so that U.S. companies are able to take full advantage of the trade agreements negotiated by the U.S. government, we recommend that the Secretaries of Commerce and State work together to facilitate communication between officials working on trade compliance issues. Such steps could include installing a secure cable in Commerce headquarters and encouraging State staff to send unclassified information regarding trade issues using unclassified systems. We also recommend that the Secretaries of Agriculture, Commerce, and State jointly develop a strategy for meeting the training needs of staff responsible for monitoring and enforcing trade agreements to better equip them to effectively handle increasingly complex or technical barriers to U.S. exports. This interagency strategy should include an assessment of what trade compliance training exists, what knowledge and skills will be necessary to effectively handle future trade

compliance issues, and what additional training is required to provide staff with the necessary knowledge and skills.

Further, to most effectively utilize the unique talents and skills of each agency to meet monitoring and enforcement objectives, we recommend that the U.S. Trade Representative work with the Secretaries of Agriculture, Commerce, State, and other trade agencies to develop and update as necessary an interagency strategy for assessing and planning for resource needs for monitoring and enforcing trade agreements.

Agency Comments and Our Evaluation

We provided a draft of this report to the Departments of Agriculture, Commerce, and State, as well as to the Office of the U.S. Trade Representative.

Agriculture acknowledged the merits of our recommendations and intends to work with other trade agencies to implement the two recommendations that apply to it.

Commerce had concerns regarding the completeness of our characterization of its efforts in several areas, including emphasizing its proactive monitoring and training activities. We added clarifying language, where appropriate, to provide a more complete picture.

State commented that the report appeared factual and reflective of State's efforts. State emphasized its variety of formal and informal training that relate to trade agreement compliance and agreed to implement our recommendation by improving coordination of training activities. State also commented that it believes that the use of classified communication systems to exchange information on trade issues is rare.

Commerce and USTR also provided technical comments, which we have incorporated where appropriate.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time we will send copies to other interested congressional committees. We will also send copies to the U.S. Trade Representative and the Secretaries of Agriculture, Commerce, and State. We will also make copies available to others upon request. In addition, this

report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-4347 or yagerl@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix VII.

Sincerely yours,

A handwritten signature in black ink that reads "Loren Yager". The signature is written in a cursive style with a large initial "L" and "Y".

Loren Yager
Director, International Affairs and Trade

Objectives, Scope, and Methodology

The Ranking Minority Member of the Senate Committee on Finance requested that we review U.S. government efforts to monitor and enforce trade agreements. This report addresses (1) how the nature and scope of U.S. trade agreements has changed in the last 10 years and what effect changes have had on agencies' monitoring and enforcement workload, (2) how U.S. government agencies monitor and enforce trade agreements, and (3) how the U.S. government allocates resources for monitoring and enforcement of trade agreements within the context of other trade activities.

To analyze how the nature and scope of U.S. trade agreements has changed in the last 10 years and what effect changes have had on agencies' monitoring and enforcement workload, we reviewed data on trade agreements from the Departments of Agriculture and Commerce and the Office of the U.S. Trade Representative (USTR) and interviewed officials with each agency. In addition, to determine the types of U.S. trade agreements currently in force, we analyzed archives of U.S. trade agreements held by each agency. To categorize each agreement, we generally used the official name of the agreement, though in some cases the official name was too vague to determine the category, so we looked at the agreement itself. We included each agreement in only one category to ensure that there would be no double-counting, so in some cases we made a determination to categorize an agreement when it could have fit into more than one category. We counted the World Trade Organization agreements to which all WTO members are party to as one agreement. We also analyzed the combined list of U.S. trade agreements to obtain trade agreement data by country and region.

Further, to determine the growth in the number of trade agreements, we analyzed trade agreement data from USTR's *Annual Report on the Trade Agreement Program* for each year from 1995 through 2004. Since USTR is the only trade agency to publish its list annually, this was the only consistent way to determine how many trade agreements were in force each year. In addition, to determine the growth in WTO membership, we compiled the accession years for each WTO member through 2004.

To assess the reliability of these data, we interviewed knowledgeable agency officials about the data and performed visual and logic tests on the data. We do not have complete assurance that we have identified every trade agreement the United States has entered into because other agencies beyond USTR, Agriculture, and Commerce may have additional agreements. However, we believe that because USTR, Agriculture and

Commerce are the agencies most involved in the monitoring and enforcement of trade agreements, their archives contain the vast majority of U.S. trade agreements. We chose not to include data from State's annual publication *Treaties in Force*, which includes some trade agreements but does not clearly define what it considers to be a trade agreement.¹ We determined that the data are sufficiently reliable for the purposes of this report.

To review how U.S. government agencies monitor and enforce trade agreements, we began by determining whether the general monitoring and enforcement framework we established in our 2000 report was still correct. We did this by examining the activities of four key trade agencies in Washington, D.C.: USTR and the Departments of Agriculture, Commerce, and State. We focused on agencies' efforts to monitor and enforce trade agreements that open foreign markets and did not focus on, for instance, agreements covering foreign government subsidies or trade remedy laws. We also visited 10 U.S. embassies and consulates in eight countries and interviewed USTR, Agriculture, Commerce, and State overseas staff involved with monitoring and enforcement. In addition, we met with more than 35 private sector representatives in Washington, D.C., and overseas to obtain their perspective on the role of the U.S. government in monitoring and enforcing trade agreements. This included representatives from business groups such as the American Chamber of Commerce as well as individual company representatives from a range of sectors, including insurance and other financial services, telecommunications, pharmaceuticals, automobiles, and software. The private sector representatives overseas were chosen because they had recently worked with U.S. government officials to resolve trade compliance issues. Although some of the business groups we met with include small and medium-sized companies, the individual companies we met with were large and may not reflect the views of small or medium sized companies. Furthermore, we analyzed U.S. government reports and documents on monitoring and enforcement activities.

¹After reviewing *Treaties in Force* and meeting with officials from State's Office of Treaty Affairs, we determined that State relies on other agencies to report trade agreements to them and does not have a reliable procedure for removing any trade agreements from its list that were no longer in force. Therefore, we determined that the information was not sufficiently reliable for the purpose of accurately determining the number of trade agreements currently in force.

To select the overseas posts to visit, we considered several variables and attempted to visit a variety of posts. Specifically, we considered for each of 34 countries whether there was a Market Access and Compliance Officer, the number of bilateral trade agreements, the types of agreements (e.g., free trade agreements, bilateral investment treaties, etc.), the number of open compliance issues listed in Commerce's Market Access Database, the number of Commerce and Agriculture staff at the post, the country's total trade with the United States, and the country's gross domestic product. We then selected countries to get a broad and varied understanding of monitoring and enforcement activities conducted overseas. For instance, we chose to visit some countries with many bilateral trade agreements with the United States and others with few agreements. Similarly, we chose to visit countries that frequently experience compliance issues as well as others that experience few compliance issues. We also chose to visit some countries with Agriculture staff and some countries for which the responsible Agriculture staff were not posted in the country. However, the posts we visited may not provide a representative view of how all posts operate, and we cannot generalize our observations to all overseas posts.

To review how the U.S. government allocates resources for monitoring and enforcement of trade agreements within the context of other trade activities, we interviewed key agency officials and reviewed agency documents. We interviewed unit management officials in each of the monitoring and enforcement units to understand how they make decisions regarding allocating resources for trade activities, including monitoring and enforcing trade agreements. We identified resource constraints by reviewing agency performance reports, budget requests, and staffing data. We also identified resource constraints by interviewing unit managers and staff in Washington, D.C., and in overseas posts. To analyze USTR's allocation of staff to various trade activities, we reviewed its *Fiscal Year 2005 Performance Plan under the Government Performance and Results Act*. This report includes USTR office managers' estimates of the number of staff required to support each activity. Because these estimates are not based on official records, they should not be viewed as precise calculations of the number of staff working on each activity. However, we compared the 2005 estimates with estimates for prior years. We concluded that these estimates are reliable for the purpose of demonstrating the general breakdown of USTR's staff into its self-identified key initiatives. In addition, we met with Agriculture officials from units trade officials rely on heavily for technical or other specialized expertise.

We also discussed agency training activities related to monitoring and enforcement with Agriculture, Commerce, and State unit management and training officials. We identified interagency structures and efforts to assess and plan for resource needs by reviewing interagency reports on monitoring and enforcement and interviewing key officials at each trade agency. We also reviewed prior GAO reports discussing monitoring and enforcing trade agreements, interagency resource planning, and the cost of maintaining an overseas presence.

We conducted our work in Washington, D.C.; Brussels, Belgium; Paris, France; Rabat and Casablanca, Morocco; Ankara and Istanbul, Turkey; Bucharest, Romania; Tokyo, Japan; Seoul, South Korea; and Singapore from July 2004 through April 2005 in accordance with generally accepted government auditing standards.

Additional Information about U.S. Trade Agreements

You requested that we provide some additional information about the scope and nature of U.S. trade agreements. This information is provided below.

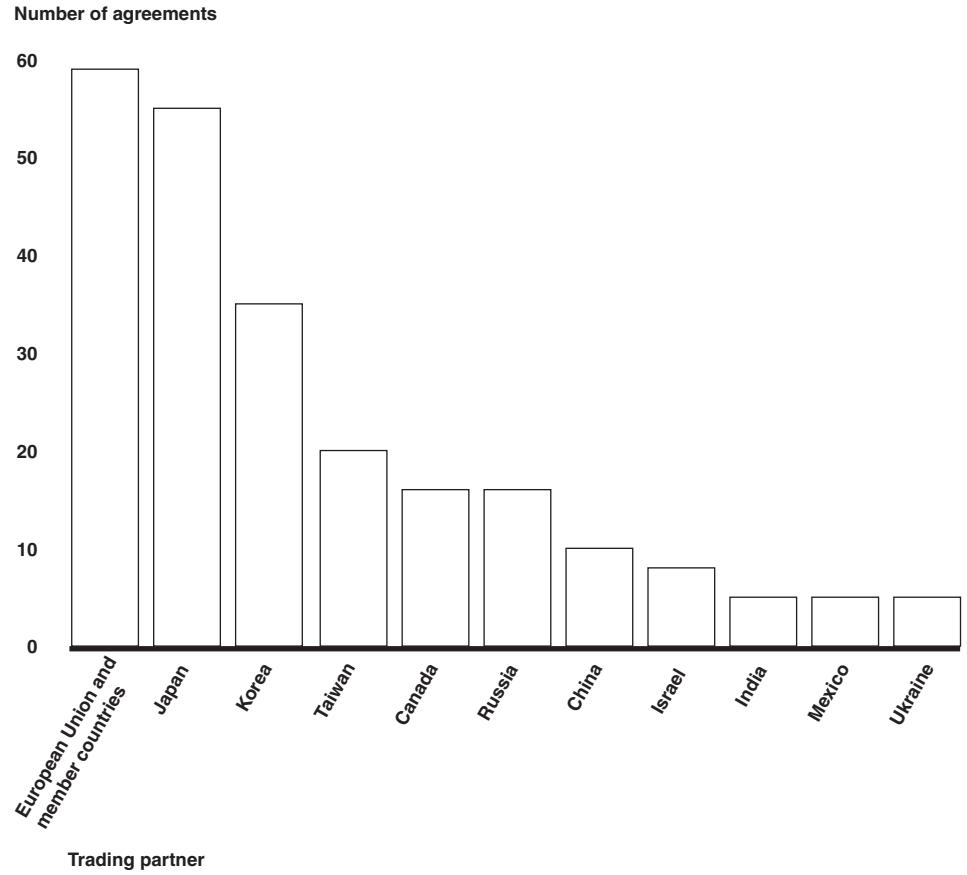
Countries and Regions with Which the United States Has Trade Agreements

The U.S. currently has bilateral trade agreements with 105 countries.¹ With the vast majority (95) of these countries, we have four or fewer bilateral trade agreements. In contrast, we have five or more agreements with 11 trading partners (see fig. 5).

¹The United States has no bilateral trade agreements with 87 countries.

**Appendix II
Additional Information about U.S. Trade
Agreements**

Figure 5: Trading Partners with Which the U.S. has Five or More Agreements, as of 2005

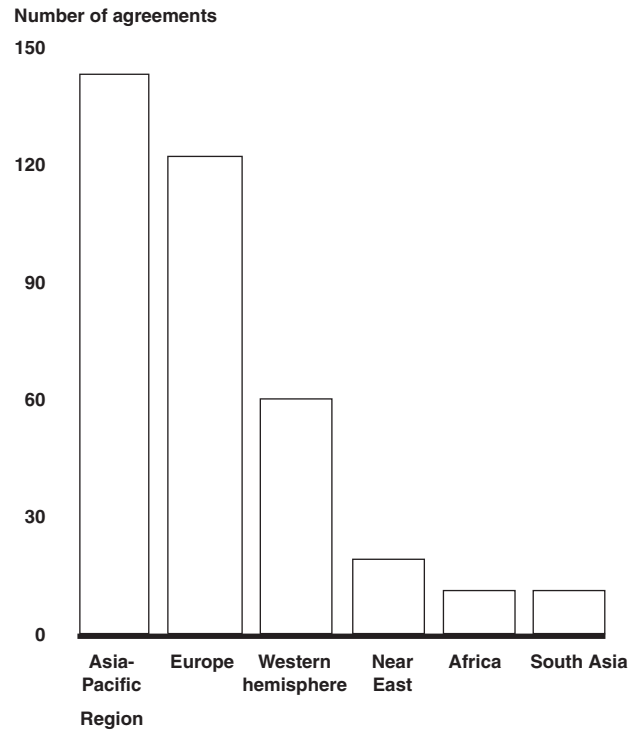


Source: GAO analysis of Agriculture, Commerce, and USTR data.

Appendix II
Additional Information about U.S. Trade
Agreements

As shown in figure 6, the United States has more agreements with countries in the Asia-Pacific region than with countries in any other region, though there are also many agreements with European countries. There are relatively few agreements with countries in Africa, the Near East, and South Asia.

Figure 6: U.S. Trade Agreements by Region, as of 2005

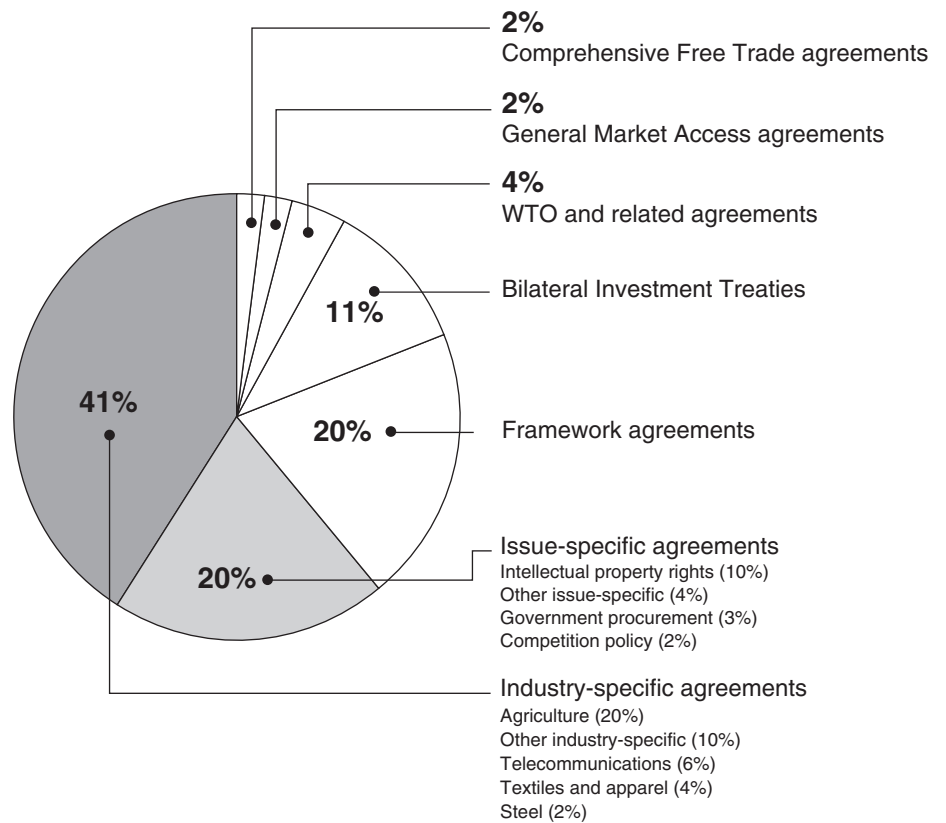


Source: GAO analysis of Agriculture, Commerce, and USTR data.

Types of U.S. Trade Agreements

Trade agreements vary widely by type (see fig. 7). A large percentage (41 percent) of agreements are industry-specific agreements, covering such things as agricultural products, steel, telecommunications issues, or textiles. There are also many framework agreements, which open trade between two nations without directly setting conditions for trade in any particular industry. There are over 40 bilateral investment treaties, which concern the reciprocal encouragement and protection of investment.

Figure 7: U.S. Trade Agreements by Type, as of 2005



Sources: GAO analysis of Agriculture, Commerce, and USTR data.

Note: Subtotals for issue- and industry-specific agreements do not add up to category totals because of rounding.

Agency Trade Agreement Archives

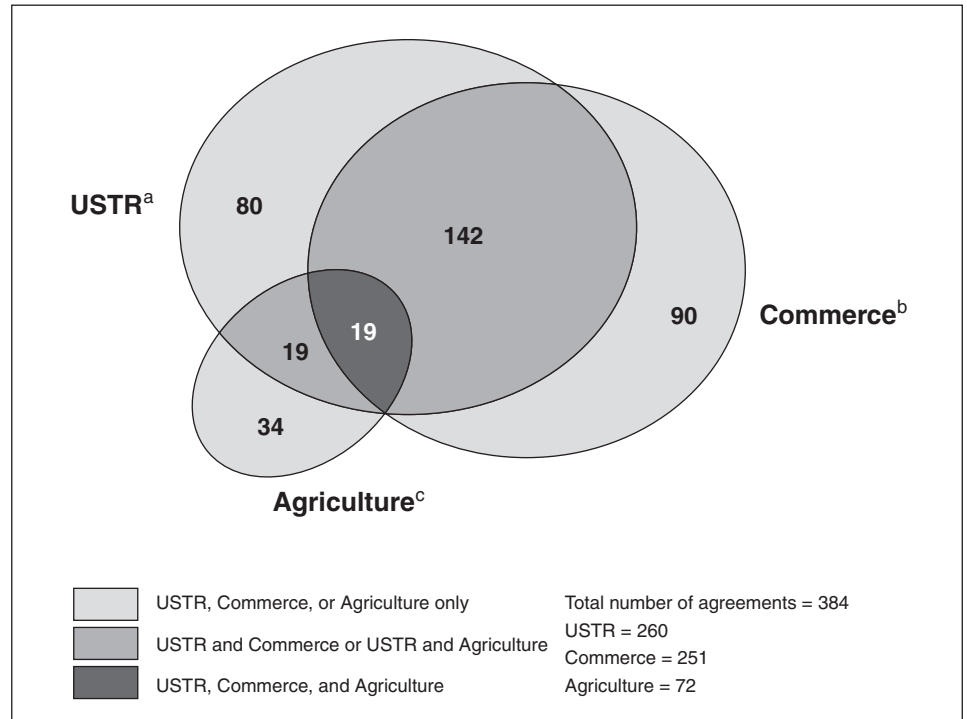
In order to determine the scope and nature of U.S. trade agreements, we examined the trade agreement archives of three agencies: USTR, Commerce, and Agriculture.² USTR publishes a list of trade agreements annually in its *Trade Policy Agenda and Annual Report*, and Commerce and Agriculture each maintain an archive of trade agreements that is available via each agency's Web site. Agencies keep archives for a variety of purposes, including tracking for their own monitoring and enforcement purposes, and providing the public with information on agreements currently in force.

As shown in figure 8, of the 384 agreements that we identified, only 19 appear in all three archives, and each archive is the only source for numerous agreements: USTR is the only source for 80 agreements and Commerce is the only source for 90 agreements. Commerce's archive includes active, binding agreements covering manufactured products and services, and does not include agricultural commodity agreements. Agriculture's archive contains agriculture-related agreements only.

²These three archives do not represent the entire universe of trade agreements. For example, State also keeps track of some trade agreements in its annual publication *Treaties in Force*. Other agencies may track trade agreements for their own purposes as necessary.

**Appendix II
Additional Information about U.S. Trade
Agreements**

Figure 8: Comparison of USTR, Commerce, and Agriculture Archives of Trade Agreements, as of 2005



Source: GAO.

Note: WTO agreements to which all WTO members are a party to are counted as one agreement.

^aUSTR data are from the *2004 Annual Report of the President of the United States on the Trade Agreements Program* and include trade agreements since 1984.

^bCommerce data are from its Trade and Related Agreements Database, which includes active, binding agreements between the United States and its trading partners covering manufactured products and services.

^cAgriculture lists agriculture-related agreements on its Web site.

Examples of U.S. Government Trade Monitoring and Enforcement Activities

U.S. trade agencies undertake monitoring and enforcement activities as part of a larger U.S. government strategy to improve market access for U.S. exports. In general, these monitoring and enforcement activities tend to be similar across agencies. Once a market access or compliance issue is identified, agency officials in the countries we visited told us they will investigate the case and gather information. They will then take whatever action is deemed appropriate to resolve the problem, trying to resolve the issue as quickly and efficiently as possible. Trade agencies tend to follow this procedure whether the issue relates to a specific trade agreement or not.

Korea

The U.S. government was recently successful in getting the government of Korea to drop its plans to mandate a telecommunications technology standard that would have become a significant barrier to trade. For several years, a U.S. company has successfully marketed cell phone “middleware” (the software that allows applications such as ring tones and games downloaded on to the handset from the Internet to work with the handset's operating system), reaching 7 million subscribers. Because each mobile service operator used different middleware for its phones, subscribers of one cellular provider could not share their downloaded applications with subscribers of a different provider. With the argument that this lack of interoperability constituted a market failure, the Korean government announced a plan to mandate that all mobile service providers exclusively use a technology called the Wireless Internet Platform for Interoperability (WIPI) that was developed by a state-financed research institute. The U.S. government considered this to be a clear-cut case of protectionist industrial policy that would have immediately closed the market to a U.S. company that had already developed a relationship with 7 million Korean consumers.

Representatives from the affected U.S. company complained to USTR and the U.S. embassy in Korea about the problem. U.S. embassy officials embarked on an extended series of meetings at all levels of the Korean government. This intervention went all the way to the ambassadorial level, as the U.S. Ambassador raised this issue in meetings with Korean ministers on more than one occasion. The Ambassador also used this trade dispute as a key point in all his speeches dealing with economic issues. In addition, State's Coordinator for International Information and Communications Policy and Commerce's Assistant Secretary for Market Access and Compliance visited Korea, in part to raise this issue with their Korean counterparts. USTR and Commerce officials became involved in the case not only during the quarterly U.S.-Korea trade meetings, where this topic

was given a high priority, but also through visits of the Deputy USTR and USTR's chief telecommunications negotiator. After approximately 3 years of negotiations, the two governments reached a compromise in which carriers may use any middleware in addition to WIPI, which was satisfactory for the U.S. company. During the negotiations, several embassy staff rotated to assignments in different countries and were replaced by new embassy staff, but company representatives said the U.S. government's efforts never faltered in persuading the Korean government to allow multiple protocols.

Japan

Many trade compliance issues that the United States faces in Japan pertain to regulatory issues and competition (antitrust) policy. To address these and other issues, the United States and Japan created the U.S.-Japan Economic Partnership for Growth, which provides a broad framework for addressing ongoing trade compliance issues. It establishes working groups whose purpose is to address measures to promote regulatory reform and competition policy. The working groups are required to report to a high-level officials' group, which in turn is required to report annually on the progress the working groups have made in their respective fields. The most recent report, published in 2004, lists progress made in key U.S. export sectors such as telecommunications, information technologies, energy, and medical devices and pharmaceuticals. For example, the report notes that the government of Japan has removed various barriers to e-commerce and will ensure that its ministries and agencies continue to do so in order to promote free and diverse e-commerce activities. U.S. government officials noted that the agreement is valuable to the United States because it provides a forum for discussing key compliance issues and allows U.S. agency officials to monitor progress on these issues.

Turkey

In July 2002, a U.S. company's high-fructose corn syrup facility in Turkey was threatened with being shut down because of alleged deficiencies with its zoning permits. The U.S. company immediately contacted the embassy and the Departments of Commerce and State. Commerce, in turn, called in the Acting Turkish Ambassador to meet with the Deputy Secretary of Commerce, and the U.S. Ambassador voiced similar concerns in Ankara. All embassy activities were closely coordinated. Soon thereafter, the Turkish Prime Minister passed a ministerial decree that allowed the plant to continue operations and promised to change the zoning law to permit the facility to operate free of these constraints. According to U.S. officials,

last year the Turkish Parliament passed amendments to the Industrial Zone Law that were signed into law by the President. These amendments allow the U.S. company to retroactively seek all the necessary permits it needs to operate its facility.

Morocco and Singapore

Since 2000, the U.S. government has entered into free trade agreements with 12 countries, including Morocco and Singapore. Trade agency officials realize that increased trade with these countries will undoubtedly create market access or compliance issues and increase the monitoring workload. Commerce therefore developed a set of guidelines for formulating a blueprint for monitoring recent free trade agreements. The plan includes the detailed commitments made by the foreign government and therefore lays the groundwork for U.S. trade agencies' future monitoring and enforcement activities. Agency officials told us that this blueprint greatly facilitates monitoring activities in Singapore, and they expect similar results in Morocco once implementation of the free trade agreement begins.

Comments from the Department of Agriculture



JUL 14 2005

United States
Department of
Agriculture

Farm and
Foreign
Agricultural
Services

Foreign
Agricultural
Service

1400
Independence
Ave, SW
Room 5071-S
Stop 1001
Washington, DC
20250-1001

Mr. Loren Yager
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Yager:

Thank you for providing the U.S. Department of Agriculture (USDA) with your draft report entitled "INTERNATIONAL TRADE: Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements." Your report offered three recommendations, two of which impact USDA.

The two recommendations of consequence for USDA are:

- (1) "...that the Secretaries of Agriculture, Commerce, and State jointly develop a strategy for meeting the training needs of staff responsible for monitoring and enforcing trade agreements to better equip them to effectively handle increasingly complex or technical barriers to U.S. exports"; and
- (2) "...that the U.S. Trade Representative work with the Secretaries of Agriculture, Commerce, State, and other trade agencies to develop and update as necessary an interagency strategy for assessing and planning for resource needs for monitoring and enforcing trade agreements."

We have carefully reviewed the report, and we acknowledge the merits of these recommendations. Therefore, we intend to work very closely with the above mentioned trade agencies in order to implement these two recommendations.

In closing, I again want to thank you for allowing us to comment on this draft report.

Sincerely,

A. Ellen Terpstra
Administrator

USDA is an Equal Opportunity Employer

Comments from the Department of Commerce

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary for International Trade
Washington, D.C. 20230

JUN 14 2005

Mr. Loren Yager
Director
International Affairs and Trade
Government Accountability Office
Washington, DC 20548

Dear Mr. Yager:

We appreciate the opportunity to provide advance comments on the May 26th draft of your proposed report, *Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements*. Below I have highlighted a few general facts that we suggest be considered for inclusion in the final report to give the reader a complete view of our compliance program.

Our Proactive Commerce Monitoring Program: The Government Accountability Office (GAO) report says that Commerce focuses on complaints that are brought to us by U.S. industry, but we feel it under emphasizes our proactive monitoring efforts. The report also does not highlight Commerce's extensive outreach efforts designed to ensure that we find industry complaints about foreign government practices and trade barriers that might be challenged to the benefit of overall U.S. industry interests. Assistant Secretary for Market Access and Compliance William H. Lash III has been highly active in this area, and has visited approximately seventy countries over the past four years to advocate compliance cases with foreign government officials and to outreach to the local U.S. business community about Commerce Department compliance services.

To comprehensively monitor implementation of and compliance with an agreement, we must look at both the changes a country makes in its domestic laws to bring them in line with the obligations of the agreement and how it changes its practices to implement these obligations. These two aspects require different monitoring approaches.

The monitoring of trade agreement implementation measures taken by a foreign partner is undertaken by Commerce on a systematic basis, driven by headquarters through various tools, including meetings of the Compliance Coordinators, performance plans, strategic goals, and implementation matrices. As an illustration, we have developed a template in a matrix format setting out the crucial obligations of a Free Trade Agreement (FTA) for the purpose of monitoring recent FTAs. Our country specialists use the matrix to follow and document the status of foreign government efforts to meet these obligations and ensure that any outstanding issues are addressed. One use of this template is referenced on page eight of GAO's report with regard to the Singapore FTA, but is described merely as a useful tactic of the Commercial Service in Singapore, rather than an element of our proactive monitoring program in Washington and overseas. Similar templates have been used for recent FTAs, such as Australia and Chile, and will be used in forthcoming FTAs.



See comment 1.

Appendix V
Comments from the Department of
Commerce

Similarly, although GAO did report that Commerce assigns an individual to serve as a Designated Monitoring Officer (DMO) for each agreement, this information was contained in a footnote, which describes the DMO as a point of contact, but does not reference the importance of the DMO as an expert on the assigned agreement and the responsibility to monitor the status of any changes in implementation of the agreement. There is a DMO for each of the 270 agreements in our database.

The second component of our monitoring program looks at the day-to-day impact on U.S. business of each agreement. With discreet case evidence in hand showing how market access was denied in contravention of a country's obligations under an agreement, it is possible to challenge a country's practices. Thus, Commerce not only puts a great deal of emphasis on cases voluntarily brought to it by U.S. exporters or investors, but also has a systematic and routine program for doing outreach, engaging the members of trade associations, Congress, and other members of our Compliance Liaison program, and soliciting assistance of our field offices in USEACs and the Foreign Commercial Service to proactively identify instances of potential non-compliance. We also coordinate our activities on specific cases with other U.S. government agencies through a monthly report on new cases and through interagency meetings of the Monitoring and Enforcement Subcommittee chaired by the Office of the U.S. Trade Representative.

Training: The report emphasizes some of the formal training sessions in which the Commerce Department participates, but gives less recognition to the numerous informal training practices in which we engage. Commerce routinely briefs Senior and other Commercial Officers during home visits and prior to overseas postings on the Commerce Compliance Program, reiterating the priority the Administration and Congress place on compliance and ensuring that each officer knows how to use the market access and compliance database and understands the importance of compliance in our daily work. Commerce also provides training on trade agreements compliance and specific trade issues through videoconferences and teleconferences, visits to USEACs, regular participation in Commercial Service regional events, industry team sectoral conference calls, and other USEAC-sponsored events. The Department believes that these sessions are some of the most effective and cost-efficient tools available for training.

On page 27, it is suggested that ITA overpaid for training services, when compared to a similar State Department procurement. Our records show that the initial training investments served closer to 80 or 90 people over several fiscal years, rather than the 30 indicated in the report.

DOC Statutory authority: DOC's statutory authority gives it a major role in monitoring. On page 4, the GAO report states that USTR "has primary statutory responsibility for monitoring and enforcing U.S. trade agreements." USTR clearly has primary statutory responsibility for developing, and for coordinating the implementation of, United States international trade policy and related direct investment matters, and lead responsibility for the conduct of international trade negotiations and enforcement. The Department of Commerce, however, has specific authority to monitor compliance with international trade agreements pursuant to the Reorganization Plan No. 3 of 1979. We

See comment 2.

Now on p. 28.
See comment 3.

See comment 4.

propose that the sentence state: "The Office of the U.S. Trade Representative (USTR) has primary statutory responsibility for implementation of U.S. international trade policy. In addition, the Departments of Commerce, Agriculture, and State perform their own monitoring activities and support USTR's efforts."

See comment 5.

Communication: Increasing the effectiveness of communications is a valid goal but we note that most compliance problems do not involve classified information. We believe that the report somewhat confuses the questions of access to a classified email system and access to classified information as if they were the same problem. We believe that the real problem explained in the report is that unclassified information that might be utilized in compliance work seems to be frequently transmitted over the classified email system. However, the Commerce Department, of course, has access to classified information and is in the process of obtaining access to the secure system for email used by the State Department.

See comment 6.

Compliance on unfair subsidies: Finally, we also note that the report apparently did not have within its scope the responsibilities and efforts of the Department of Commerce's Import Administration (IA), which is responsible for monitoring and enforcement of disciplines against unfair government subsidies and application of foreign trade remedy laws that affect U.S. exporters. IA's broader focus on compliance issues includes the Unfair Trade Practices Task Force, which was established as one of the initiatives proposed in Commerce's Manufacturing Report. Building upon existing programs, IA seeks to address potential unfair trade problems at their sources, and at the earliest stage possible, as a complement to the enforcement of the antidumping and countervailing duty laws.

We offer these comments to clarify certain facts and provide you with a more complete picture of our efforts. We hope you will consider reflecting these points in the appropriate sections of the report.

Thank you for a good working relationship and for your professional review of such an important issue. We look forward to the finalized report.

Sincerely,



Timothy J. Hauser

The following are GAO's comments on the Department of Commerce's letter dated June 14, 2005.

GAO Comments

1. Since our report attempts to provide a description of monitoring and enforcement activities performed consistently across U.S. government agencies, we did not initially include information on some of Commerce's proactive outreach and monitoring activities. We have revised the report to include additional information on Commerce's efforts in these areas, including citing some of the specific examples mentioned in Commerce's letter.
2. We highlight the specific trade agreement compliance training courses because they are solely focused on training staff regarding monitoring and enforcing trade agreements and because officials we met with identified them as useful courses. However, we have supplemented our report with additional information regarding Commerce's and State's other related formal and informal training efforts.
3. Based on documents obtained from Commerce and State, we note that both agencies contracted with the same vendor to provide similar training, but that Commerce paid significantly more per student, per day. Commerce provided a participant list for the July 2003 course, which included 27 Commerce staff. Our point was to demonstrate the cost differential between the two similar courses.
4. We have revised the report to clarify the various trade agencies' statutory authority and their role in monitoring and enforcing trade agreements.
5. Based on comments from Commerce and State, we have revised the report to clarify that the two agencies disagree about the extent to which unclassified information about trade issues is sent using classified systems. We also note that while Commerce is in the process of obtaining access to the secure system for email used by State, Commerce officials told us that this process has taken more than four years.
6. Foreign trade remedy laws and subsidies were not within the scope of this review. We have clarified this in our scope and methodology, which is discussed in appendix I.

Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State

Assistant Secretary and Chief Financial Officer

Washington, D.C. 20520

Ms. Jacquelyn Williams-Bridgers
Managing Director
International Affairs and Trade
Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20548-0001

JUN 16 2005

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "INTERNATIONAL TRADE: Improvements Needed to Handle Growing Workload for Monitoring and Enforcing Trade Agreements," GAO Job Code 320274.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact Andrew Dilworth, Foreign Affairs Officer, Bureau of Economic and Business Affairs, at (202) 736-4021.

Sincerely,

A handwritten signature in black ink, appearing to read "S Kaplan".

Sid Kaplan (Acting)

cc: GAO – Judith Williams
EB – E. Anthony Wayne
State/OIG – Mark Duda

Department of State Comments on GAO Draft Report

**INTERNATIONAL TRADE: Improvements Needed to Handle
Growing Workload for Monitoring and Enforcing Trade Agreements,
(GAO-05-537, GAO Code 320274)**

The Department of State appreciates the opportunity to participate in the work of the Government Accountability Office (GAO) in examining how we can improve our role in monitoring and enforcing trade agreements. Although we currently coordinate extensively within our Department and with other agencies on trade agreement monitoring and enforcement, we are always open to suggestions for improvement. Overall, the draft report appears factual and reflective of current practices at the Department. Upon closer inspection of the draft report, however, we would like to offer a few comments for GAO's consideration prior to its publication of the final report.

1. FSI's Trade Agreement Implementation Course

Throughout the report, GAO makes it appear that there is only one course at the Foreign Service Institute (FSI) related to trade agreement compliance. Although there is only one FSI course titled "Trade Agreement Implementation," there are many other courses that directly or indirectly train staff to monitor trade agreements, including the nine-month Economics and Commercial Studies course and shorter courses on telecommunications, intellectual property rights, biotechnology, and aviation. Foreign Service nationals (FSNs) are eligible to take most of these courses but FSI also offers one course per year for FSNs on economic issues that touch on trade agreement compliance. We also offer two distance-learning courses related to trade agreement compliance (Basics of International Trade and World Trade Organization History and Core Principles) that can be accessed through the Internet.

The Department of State also fosters informal training that touch upon trade agreement compliance. Foreign Service Officers and FSNs conduct consultations with Washington-based trade officials, participate in short-term bridge assignments in Washington trade agency offices, and receive ad hoc on-the-job training as necessary.

See comment 1.

GAO notes that there is a need for more training on trade agreement compliance (p. 25). FSI offers the “Trade Agreement Implementation” course to meet the demand for the course as determined by those who register. If there is excess demand, those students are added to a waiting list and we have the option of adding more classes. Based on this measure of demand, in contrast to GAO’s measure of students who need or would like to take the course, we feel we are offering a sufficient number of courses per year. As needed and with appropriate funding, we could add additional offerings of “Trade Agreement Implementation.”

Lastly, GAO recommends that State, Commerce, USTR and Agriculture increase coordination on training activities. We will continue to coordinate with these agencies and consider any ways to improve coordination.

2. Usage of Classified System for Trade Monitoring and Enforcement

GAO reports that communication between Commerce and State can be difficult due to Commerce’s limited access to the classified communications systems that State staff use with increasing frequency (p. 18). As a general rule, posts conduct almost all trade agreement implementation reporting on the unclassified email system. It is very rare that issues dealing with trade agreement monitoring and enforcement appear on the classified email system.

3. U.S.-Japan Economic Partnership for Growth

GAO incorrectly refers to the U.S.-Japan Economic Partnership for Growth as a signed “agreement.” On page 42, the report states, “To address these and other issues, the United States and Japan signed the U.S.-Japan Economic Partnership for Growth agreement. The agreement provides a broad framework for addressing ongoing trade compliance issues.”

The Partnership is really a Presidential-Prime Ministerial initiative. Here is a suggested revision: "To address these and other issues, President Bush and Prime Minister Koizumi launched the US-Japan Economic Partnership for Growth. This initiative provides a broad framework for addressing ongoing trade compliance issues."

See comment 2.

See comment 3.

The following are GAO's comments on the Department of State's letter dated June 16, 2005.

GAO Comments

1. We highlight the Foreign Service Institute's specific trade agreement compliance training course because it is solely focused on training staff regarding monitoring and enforcing trade agreements and because officials we met with identified it as a useful course. However, we have supplemented our report with additional information regarding Commerce's and State's other related formal and informal training efforts.
2. Based on comments from Commerce and State, we have revised the report to clarify that the two agencies disagree about the extent to which unclassified information about trade issues is sent using classified systems.
3. We have revised the report to clarify the fact that the U.S.-Japan Economic Partnership for Growth was not a signed agreement. However, both USTR's and Commerce's publicly available lists of trade agreements in force list this agreement. Further, agency officials in Japan and Washington, D.C. told us this is the key trade agreement that covers the compliance issues they monitor.

GAO Contact and Staff Acknowledgments

GAO Contact

Loren Yager, (202) 512-4347

**Staff
Acknowledgments**

In addition, Anthony Moran, Jason Bair, Leah DeWolf, Judith Williams, Ernie Jackson, and Jamie McDonald made key contributions to this report.

Related GAO Products

Embassy Construction: Proposed Cost-Sharing Program Could Speed Construction and Reduce Staff Levels, but Some Agencies Have Concerns, [GAO-05-32](#) (Washington, D.C.: Nov. 15, 2004).

U.S.-China Trade: Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments, [GAO-05-53](#) (Washington, D.C.: Oct. 6, 2004).

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