



April 2017

TRADE ENFORCEMENT

Information on U.S. Agencies' Monitoring and Enforcement Resources for International Trade Agreements

GAO Highlights

Highlights of [GAO-17-399](#), a report to congressional committees

Why GAO Did This Study

Monitoring and enforcing trade agreements is a key element of the U.S. government's efforts to boost exports of U.S. goods and services. The vast majority of U.S. exports, which totaled \$2.26 trillion in 2015, are covered by at least one trade agreement to which the United States is a party. These agreements include multilateral World Trade Organization agreements and bilateral or regional FTAs with 20 countries. The Office of the U.S. Trade Representative and several other federal agencies share responsibility for monitoring and enforcing partner countries' compliance with trade agreements. The U.S. government also provides trade capacity-building assistance, which includes goals to help partner countries meet their obligations under trade agreements.

The Trade Facilitation and Trade Enforcement Act of 2015, Public Law 114-25, includes a provision for GAO to examine federal agencies' resources to monitor and enforce international trade agreements. This report (1) examines agencies' resources and activities for monitoring and enforcing international trade agreements in fiscal year 2016 and (2) identifies agencies' trade capacity-building projects, active in fiscal year 2016, to assist FTA partner countries in meeting their obligations under these agreements. GAO reviewed agency documents, interviewed agency officials, and analyzed agencies' estimates of resources used to monitor and enforce trade agreements.

GAO is making no recommendations in this report.

View [GAO-17-399](#). For more information, contact Kimberly Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov.

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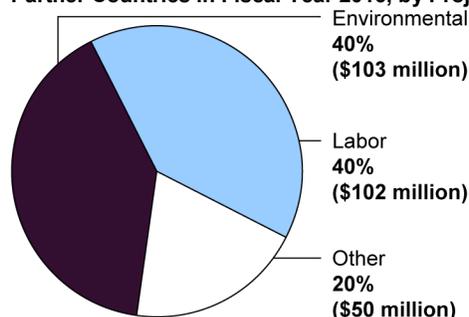
Information on U.S. Agencies' Monitoring and Enforcement Resources for International Trade Agreements

What GAO Found

Eleven U.S. agency offices and bureaus have responsibilities for monitoring and enforcing international trade agreements; however, they do not have information that allows for a definitive count of the staff resources and related funding used to carry out these responsibilities. This is because many of the staff who conduct trade monitoring and enforcement activities at these agencies do so as part of a broader portfolio of activities, and none of the agencies routinely tracks staff time at this level of detail. In response to GAO's request for information, the 11 offices and bureaus used a variety of methods to develop estimates of the number of full-time equivalent (FTE) staff they believe worked on trade monitoring and enforcement activities in 2016 and the approximate costs associated with salaries and benefits for these FTEs. The estimates suggest that in fiscal year 2016, these 11 offices and bureaus dedicated over 700 FTEs at a cost of more than \$100 million to monitor and enforce trade agreements. However, the estimates do not fully include all related costs (such as overhead costs) and, in some cases, may not represent all staff who conducted trade monitoring and enforcement activities.

U.S. agencies provide trade capacity-building assistance to help partner countries meet their obligations under free trade agreements (FTA) with the United States, such as their labor and environmental commitments. In fiscal year 2016, U.S. agencies oversaw 80 trade capacity-building projects intended to help partner countries meet their obligations as parties to FTAs. These projects, many of which spanned multiple years, amounted to about \$256 million in obligated and planned funding. About 80 percent of project funding was related to helping partner countries comply with labor or environmental commitments.

Distribution of Funding for Trade Capacity-Building Projects Active in Free Trade Agreement Partner Countries in Fiscal Year 2016, by Project Objective



Source: GAO analysis of data provided by the Departments of Labor and State, and the U.S. Agency for International Development. | [GAO-17-399](#)

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Abbreviations

CAFTA-DR	The Dominican Republic – Central American – United States Free Trade Agreement
CBP	U.S. Customs and Border Protection
Commerce	Department of Commerce
DHS	Department of Homeland Security
DOL	Department of Labor
FAS	Foreign Agricultural Service
FCS	Foreign Commercial Service
FTA	free trade agreement
FTE	full-time equivalent
ICE	U.S. Immigration and Customs Enforcement
ITA	International Trade Administration
NAFTA	North American Free Trade Agreement
NIST	National Institute of Standards and Technology
State	Department of State
TBT	technical barriers to trade
USAID	U.S. Agency for International Development
USDA	Department of Agriculture
USTR	Office of the U.S. Trade Representative
WTO	World Trade Organization

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April 13, 2017

The Honorable Orrin Hatch
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Kevin Brady
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Monitoring and enforcing trade agreements is a key element of the U.S. government's efforts to boost exports of U.S. goods and services. The vast majority of U.S. exports—totaling \$2.26 trillion in 2015—are covered by at least one trade agreement to which the United States is a party. These include the multilateral World Trade Organization (WTO) agreements with 164 members and 14 bilateral or regional free trade agreements (FTA) with 20 countries. The Office of the U.S. Trade Representative (USTR) and several other U.S. agencies share responsibility for monitoring and enforcing trade agreements intended to open markets to American goods and services while strengthening trading partners' protection of workers' rights, the environment, and intellectual property rights. In addition to USTR, other U.S. agencies with this responsibility include the Departments of Agriculture (USDA), Commerce (Commerce), Homeland Security (DHS), Labor (DOL), and State (State). In addition, the U.S. government provides trade capacity-building assistance, which includes goals to help partner countries meet their obligations under trade agreements. The U.S. Agency for International Development (USAID), along with DOL and State, provides this assistance to FTA partner countries.

The Trade Facilitation and Trade Enforcement Act of 2015 includes a provision for GAO to analyze and report on relevant federal agencies' funding and employees for carrying out activities related to trade

enforcement.¹ This report (1) examines agencies' resources and activities for monitoring and enforcing international trade agreements in fiscal year 2016 and (2) identifies agencies' trade capacity-building assistance projects, active in fiscal year 2016, to assist FTA partner countries in meeting their obligations under these agreements.

To determine relevant agencies' estimated full-time equivalent (FTE) staff resources and funding used to monitor and enforce trade agreements in fiscal year 2016, we first identified which agencies had responsibilities for monitoring and enforcement efforts and had committed resources to these efforts by reviewing agencies' budget reports, strategic plans, and annual reports and interviewing relevant agency officials.² None of the relevant agencies we identified routinely tracks staff resources and funding specifically for monitoring and enforcement of trade agreements. Thus, in response to our request for information, these agencies told us that they would have to develop estimates of their fiscal year 2016 FTEs and funding used for these activities. To collect these estimates and to identify the types of monitoring and enforcement activities involved, we developed and circulated a data collection instrument to these agencies. Recognizing that agency officials would have to rely on different information sources and apply professional judgment, we asked them for estimates of fiscal year 2016 FTEs and dollar costs devoted to monitoring and enforcement. Agencies' estimates of funding associated with their FTEs used to monitor and enforce trade agreements generally reflected the average annual salaries and benefits of the staff involved. To assess the reliability of agencies' FTE and funding estimates for monitoring and enforcement of trade agreements, we included questions in our data collection instrument about their methodologies for developing their estimates, the agency officials they consulted, and the strengths and weaknesses of their estimates. Based on these responses, which showed

¹See Pub. L. No. 114-125, Tit. VI, § 611(f), 130 Stat. 122, 194. The provision also asked GAO to make recommendations on additional employees and resources that these agencies may need to enforce FTAs; however, we did not identify a basis for such recommendations. Agencies generally had not identified additional resources needed specifically for monitoring and enforcing trade agreements in their budget request documents. We are reporting separately on U.S. Customs and Border Protection's (CBP) trade enforcement efforts in response to a separate provision in the act, Title I, Section 102.

²Officials from the Department of the Treasury, the International Trade Commission, and the National Oceanic and Atmospheric Administration stated that they did not commit any significant resources for monitoring and enforcement of trade agreements in fiscal year 2016.

that the agencies had to rely on different information sources and apply professional judgment, we determined these estimates could only be used to provide a broad indication of the FTEs and staff costs in fiscal year 2016 across agencies, but that they could not be used for precise comparisons.

To identify U.S. trade capacity-building assistance projects to help partner countries meet their obligations under FTAs, we collected available information on relevant capacity-building projects that were active in fiscal year 2016. We identified the recipient FTA partner countries and the subject matter focus of the projects, such as assistance with meeting labor or environment obligations, and collected obligated and planned funding amounts for projects within FTA partner countries. We did not assess the implementation or effectiveness of these projects. To assess the reliability of data on trade capacity-building projects, we compared information provided by these agencies with source databases, discussed discrepancies with agency officials, and reviewed agencies' procedures for assessing the completeness and accuracy of the project data collection and storage. We determined that the data we obtained were sufficiently reliable for the purposes of our review. For a full description of our scope and methodology, see appendix I.

We conducted this performance audit from May 2016 to April 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

International Trade Agreements with the United States

The United States is a party to a variety of international trade agreements, including WTO agreements, FTAs, bilateral investment treaties, and trade and investment framework agreements. The WTO, which currently has 164 members, including the United States, provides a forum for enforcing U.S. rights under various WTO agreements. WTO members commit to a number of agreements covering goods, services, intellectual property rights, and a dispute settlement process. Members participate in more than 20 WTO committees to oversee implementation of these agreements. For example, committees exist for agreements on

market access, agriculture, sanitary and phytosanitary measures,³ technical barriers to trade (TBT),⁴ financial services, and protection of intellectual property rights. U.S. agency staff participate in multiple WTO committee meetings throughout the year to track member countries' policies and practices and seek their compliance with obligations under these agreements.

The United States is also a party to 14 FTAs involving 20 partner countries—Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Singapore, and South Korea (see table 1).

Table 1: U.S. Free Trade Agreements (FTA) in Force as of February 2017

FTAs	Entry into force
Agreement on the Establishment of a Free Trade Area between the Government of Israel and the Government of the United States of America	1985
North American Free Trade Agreement ^a	1994
Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area	2001
United States – Chile Free Trade Agreement	2004
United States – Singapore Free Trade Agreement	2004
United States – Australia Free Trade Agreement	2005
United States – Bahrain Free Trade Agreement	2006
United States – Morocco Free Trade Agreement	2006
The Dominican Republic – Central American – United States Free Trade Agreement ^b	2006 –2009
Agreement between the Government of the United States of America and the Government of the Sultanate of Oman on the Establishment of a Free Trade Area	2009
United States – Peru Trade Promotion Agreement	2009

³The WTO Agreement on Application of Sanitary and Phytosanitary Measures aims to ensure that WTO members' food safety and animal and plant health measures do not create unnecessary obstacles to trade.

⁴The WTO Agreement on Technical Barriers to Trade aims to ensure that technical regulations, standards, and conformity assessment procedures are nondiscriminatory and do not create unnecessary obstacles to trade.

FTAs	Entry into force
United States – Colombia Trade Promotion Agreement	2012
Free Trade Agreement between the United States and the Republic of Korea	2012
United States – Panama Trade Promotion Agreement	2012

Source: Department of State. | GAO-17-399

^aThe North American Free Trade Agreement is an agreement between the United States, Canada, and Mexico.

^bThe Dominican Republic – Central America – United States Free Trade Agreement is an agreement between the United States and several Central American countries. For El Salvador, Guatemala, Honduras, and Nicaragua, the agreement entered into force in 2006; for the Dominican Republic, the agreement entered into force in 2007; and for Costa Rica, the agreement entered into force in 2009.

FTAs phase out barriers to trade in goods with particular countries or groups of countries and contain rules designed to improve access to foreign markets for U.S. services, investment, and intellectual property rights as well as rules of origin and dispute settlement. Most of these agreements also include chapters that address workers' rights and the environment and provide cooperation mechanisms through which the United States provides trade capacity-building assistance to help partner countries meet their obligations under these agreements.

In addition, the United States has bilateral investment treaties in force with 40 countries.⁵ According to USTR, such treaties provide binding legal rules regarding one country's treatment of investors and investments from another country to help promote economic reforms, improve investment climates, and attract new investment. According to State, one of the basic aims of the U.S. bilateral investment treaty program is to encourage the adoption of policies that treat private investment in a nondiscriminatory way. Moreover, State explains that these treaties limit the conditions in which performance requirements, such as local content requirements, may be imposed. According to State, these treaties also include a dispute settlement mechanism giving investors the right to submit an investment dispute to international arbitration.

The United States is also a party to 52 bilateral and regional trade and investment framework agreements that, according to USTR, provide strategic frameworks and principles for dialogue on trade and investment issues. These agreements all serve as a forum for the United States and other governments to meet and discuss issues of mutual interest with the

⁵These treaties are in addition to investment chapters in FTAs in force with 17 countries.

objective of improving cooperation and enhancing opportunities for trade and investment, according to USTR. The United States and partner countries consult on a wide range of issues related to trade and investment. Topics for consultation and possible further cooperation include market access issues, labor, the environment, protection and enforcement of intellectual property rights, and, in appropriate cases, capacity-building, according to USTR.

Monitoring and Enforcement of Trade Agreements

We have previously reported that U.S. government efforts to monitor and enforce trade agreements pursue three broad goals: ensuring foreign compliance, providing credible deterrence, and inspiring confidence that trade agreements benefit U.S. citizens as intended.⁶ “Monitoring” refers to activities agencies undertake to identify instances where foreign laws, regulations, and practices may be inconsistent with trade agreement provisions. “Enforcement” refers to actions agencies take to secure foreign compliance with trade agreements, which can include initiating dispute settlement procedures that certain trade agreements provide.⁷

According to USTR, the majority of efforts to resolve trade disputes and ensure compliance with trade agreements occur outside of the context of formal dispute settlement procedures. These efforts include analysis of trading partners’ policies and procedures, formal and informal plurilateral and bilateral engagement, participation in WTO and FTA committees and other plurilateral or bilateral fora, public outreach, and trade capacity-building. If these efforts fail to achieve the desired outcomes, the United States relies on dispute settlement procedures, according to USTR. In March 2017, USTR reported that the United States has filed 110 complaints at the WTO since its inception in 1994 and had successfully concluded 81 of them by settling 34 disputes favorably and prevailing in

⁶See GAO, *International Trade: Four Free Trade Agreements GAO Reviewed Have Resulted in Commercial Benefits, but Challenges on Labor and Environment Remain*, [GAO-09-439](#) (Washington, D.C.: July 10, 2009).

⁷For past GAO work related to enforcement of trade agreements, see [GAO-09-439](#); *Free Trade Agreements: U.S. Partners Are Addressing Labor Commitments, but More Monitoring and Enforcement Are Needed*, [GAO-15-160](#) (Washington, D.C.: Nov. 6, 2014); and GAO, *Free Trade Agreements: Office of the U.S. Trade Representative Should Continue to Improve Its Monitoring of Environmental Commitments*, [GAO-15-161](#) (Washington, D.C.: Nov. 6, 2014).

47 others through litigation before WTO panels and the Appellate Body.⁸ USTR has lead responsibility for litigating disputes but relies on support and expertise from other federal agencies.

U.S. Agencies Involved in Enforcement and Monitoring of Trade Agreements

USTR, which is part of the Executive Office of the President, and several other U.S. government agencies have responsibility for monitoring and enforcing trade agreements. These agencies are USDA, Commerce, DHS, DOL, and State. Table 2 shows key monitoring and enforcement roles and responsibilities of offices or bureaus within these agencies.

Table 2: U.S. Offices and Bureaus with Responsibility for Monitoring and Enforcing Trade Agreements

Agency	Key roles and responsibilities related to monitoring and enforcing trade agreements
Office of the U.S. Trade Representative (USTR)	<p>Leads interagency efforts to monitor and enforce trade agreements.</p> <p>Identifies, analyzes, and seeks to resolve trade barriers that may be inconsistent with U.S. trade agreements or have an adverse effect on U.S. interests under those agreements.</p> <p>Leads U.S. government participation in committees, working groups, and negotiating bodies under various World Trade Organization (WTO) agreements and free trade agreements (FTA) to secure U.S. trade interests and ensure that partner countries adhere to their commitments under these agreements.</p> <p>Litigates disputes that the United States files with the WTO, under an FTA involving the United States or involving another international trade agreement.</p>
Foreign Agricultural Service, Department of Agriculture	<p>Analyzes foreign government measures to determine whether they are impeding U.S. agricultural exports to foreign markets or are inconsistent with the foreign country's commitments under trade agreements.</p> <p>Participates in WTO and FTA committees and dispute settlement cases related to agriculture, sanitary and phytosanitary measures, and technical barriers to trade (TBT) issues.</p> <p>Serves as a major U.S. government access point for U.S. businesses and agricultural industry groups to report trade problems and investigate them.</p> <p>Workforce includes agricultural attachés and locally employed staff in over 90 overseas offices who conduct intelligence gathering and engagement with trading partners to identify trade barriers and resolve disputes under trade agreements.</p>

⁸Office of the U.S. Trade Representative, *2017 Trade Policy Agenda and 2016 Annual Report of the President of the United States on the Trade Agreements Program* (Washington, D.C.: March 2017).

Agency	Key roles and responsibilities related to monitoring and enforcing trade agreements
International Trade Administration, Department of Commerce (Commerce)	<p>Identifies and investigates trade barriers caused by foreign government noncompliance with trade agreements and engages those governments to convince them to remove these barriers.</p> <p>Serves as a major U.S. government access point for U.S. businesses to report trade barriers for U.S. government action.</p> <p>Participates in WTO and FTA committees to secure U.S. trade interests and ensure compliance with commitments under these agreements.</p> <p>Provides support, information, and analysis for various WTO dispute settlement cases involving the United States and administers the U.S. Trade Agreement Secretariat responsible for the fair and impartial administration of dispute settlement actions under FTAs.</p> <p>Workforce includes Foreign Commercial Service officers and locally employed staff in over 70 countries who assist in monitoring and enforcement of trade agreements, among other responsibilities.</p>
National Institute of Standards and Technology (NIST), Commerce	<p>Maintains U.S. point of contact, called an “inquiry point,” related to the WTO TBT Agreement. NIST’s inquiry point responds to questions from interested parties and other WTO members regarding technical regulations, standards developed by government bodies, and conformity assessment procedures (e.g., procedures for sampling, testing, and inspection of products).</p> <p>Inquiry point also notifies the WTO of proposed U.S. and state-level technical regulations that meet certain conditions in the TBT agreement.</p> <p>Provides technical expertise in standards and measurements to review issues raised in the WTO committee on TBT.</p>
U.S. Patent and Trademark Office, Commerce	<p>Assists with the drafting, reviewing, and implementation of intellectual property obligations in bilateral and multilateral treaties and trade agreements.</p> <p>Supports USTR and U.S. agencies in international consultations on intellectual property issues.</p>
U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS)	<p>Conducts verifications of importers’ claims for trade benefits under FTAs and trade preference programs. Verifications ensure compliance with trade agreements by checking for fraudulent practices, transshipments, false importer claims, improper description of merchandise, and undervaluation and undercounting of goods.</p> <p>Conducts site visits to overseas textile factories to verify compliance with FTA and trade preference programs through validation of production capacities associated with imported textile and apparel goods.</p>
U.S. Immigration and Customs Enforcement (ICE), DHS	<p>Conducts investigations of false claims of country of origin to gain the trade benefits under FTAs; this is one of several types of trade fraud investigations ICE conducts.</p> <p>Participates with CBP on site visits to textile factories to verify the origin of imported textile and apparel goods and compliance with FTAs and trade preference programs.</p>
Bureau of International Labor Affairs, Department of Labor	<p>Monitors implementation of FTA labor provisions, which includes investigating public complaints and engaging with partner countries to redress inconsistencies with labor commitments of FTAs.</p> <p>Provides trade capacity-building assistance to help FTA partner countries meet their obligations related to labor conditions under these agreements.</p>
Bureau of Democracy, Human Rights, and Labor, Department of State (State)	<p>Coordinates with State’s Foreign Service labor officers, who carry out regular monitoring and reporting and day-to-day interaction with foreign governments on labor matters related to FTA labor provisions.</p> <p>Provides trade capacity-building assistance to help FTA partner countries meet their obligations to protect workers’ rights under these agreements.</p>

Agency	Key roles and responsibilities related to monitoring and enforcing trade agreements
Bureau of Economic and Business Affairs, State	<p>Coordinates with other agencies and State’s Foreign Service economic officers based in overseas posts throughout the world to resolve trade disputes or trade barriers and monitor and enforce compliance with trade agreements—including agreements related to investment, intellectual property, and telecommunications.</p> <p>Works with other State offices, U.S. embassies, and other agencies on WTO and FTA dispute settlement cases.</p>
Bureau of Oceans and International Environmental and Scientific Affairs, State	<p>Coordinates with State’s Foreign Service environment, science, technology, and health officers to implement environmental cooperation agreements related to FTAs and monitor partner countries’ compliance.</p> <p>Provides trade capacity-building assistance to help FTA partner countries meet their environmental commitments under these agreements.</p>

Source: GAO analysis of U.S. agency information. | GAO-17-399

Note: These are key roles and responsibilities and may not necessarily include each agency’s full range of monitoring and enforcement responsibilities.

Trade Enforcement Trust Fund Established by Congress

The Trade Facilitation and Trade Enforcement Act of 2015 established a “Trade Enforcement Trust Fund” from which USTR or other federal agencies can receive funding to monitor and enforce WTO agreements and FTAs and also to support trade capacity-building assistance to help partner countries meet their FTA obligations and commitments.⁹ These funds may not be used or transferred to other agencies unless authority is provided in an appropriations act; however, as of April 2017, Congress has not passed an appropriations act with the necessary authority. USTR officials stated that they have not taken any action regarding the use of the Trust Fund, given the absence of such an authority in an appropriations act.

⁹See Pub. L. No. 114-25, § 611. The act directs the Secretary of the Treasury to transfer up to \$15 million from the general fund of the Treasury to the Trust Fund annually, with the total balance in the Trust Fund at any one time not to exceed \$30 million.

Information Is Not Available to Definitively Determine Resources Expended for Monitoring and Enforcing Trade Agreements

Eleven offices or bureaus within six U.S. federal agencies told us that they had staff that worked on monitoring and enforcement of trade agreements in fiscal year 2016. They also identified the range of activities this work involved (see table 3).¹⁰

Table 3: Agencies' Activities to Monitor and Enforce Trade Agreements in Fiscal Year 2016

Monitoring and enforcement activity	ITA/DOC	FAS/USDA	USTR	CBP/DHS	EB/State	ILAB/DOL	ICE/DHS	OES/State	NIST/DOC	USPTO/DOC	DRL/State
Monitoring or resolving compliance with World Trade Organization (WTO) agreements	X	X	X	X	X	X			X	X	X
WTO dispute settlement cases	X	X	X		X					X	
Monitoring or resolving compliance with Free Trade Agreements (FTA)	X	X	X	X	X	X		X		X	X
FTA dispute settlement cases	X	X	X		X	X				X	
Investigating formal and informal public complaints regarding trade agreement violations	X	X	X	X	X	X	X	X		X	X
Monitoring or enforcing other agreements, such as bilateral investment treaties	X	X	X	X	X	X		X		X	

¹⁰We did not determine the share of time agencies devoted to these activities nor did we independently verify that these activities took place.

Monitoring and enforcement activity	ITA/DOC	FAS/USDA	USTR	CBP/DHS	EB/State	ILAB/DOL	ICE/DHS	OES/State	NIST/DOC	USPTO/DOC	DRL/State
Monitoring countries' intellectual property rights enforcement	X	X	X		X	X				X	
Monitoring telecommunications trade agreements	X		X		X						
Preparing required reports on monitoring and enforcement efforts	X	X	X	X	X	X				X	
Verifications of claims for trade benefits under FTAs for imports into the United States		X		X			X				
Inspections of overseas textile factories to validate production capacities and processes in connection with claims for preferential tariff treatment for imported goods				X			X				
Investigations of fraudulent claims for FTA trade benefits				X			X				

Legend:

ITA/DOC: International Trade Administration, Department of Commerce

FAS/USDA: Foreign Agricultural Service, Department of Agriculture

USTR: Office of the U.S. Trade Representative

CBP/DHS: U.S. Customs and Border Protection, Department of Homeland Security

EB/State: Bureau of Economic and Business Affairs, Department of State

ILAB/DOL: Bureau of International Labor Affairs, Department of Labor

ICE/DHS: U.S. Immigration and Customs Enforcement, Department of Homeland Security

OES/State: Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

NIST/DOC: National Institute of Standards and Technology, Department of Commerce

USPTO/DOC: U.S. Patent and Trademark Office, Department of Commerce

DRL/State: Bureau of Democracy, Human Rights, and Labor, Department of State

Source: GAO analysis of data provided by federal agencies. | GAO-17-399

Although agencies were able to describe the types of activities their staff undertook to monitor and enforce trade agreements in fiscal year 2016, they did not have key information needed to definitively determine the resources expended on such activities. With the exception of

Commerce's National Institute of Standards and Technology (NIST),¹¹ all the agencies we queried indicated that some of their staff responsible for monitoring and enforcement of trade agreements also had other responsibilities. However, none of the agencies routinely tracks staff time at a level of detail that distinguishes time specifically dedicated to trade agreement monitoring and enforcement from time spent on these other responsibilities.

While agencies were unable to definitively determine the resources they used for monitoring and enforcement, they nevertheless provided estimates of the number of FTEs they believe were involved in such activities. They did so based on approaches such as reviewing staff portfolios or work records, obtaining staff input, and applying professional judgment after discussions among managers in response to our request for this information. The agencies estimated the funding levels associated with these FTEs by calculating the average salaries and benefits of the staff time used for these efforts. Table 4 shows the agencies' estimates of FTEs and the associated salary and benefit costs for efforts to monitor and enforce trade agreements in fiscal year 2016. The estimates suggest that in fiscal year 2016, 11 agency offices and bureaus dedicated over 700 FTEs and over \$100 million to monitoring and enforcing trade agreements.

¹¹NIST indicated having a total of two FTEs based on two staff whose responsibilities mainly consisted of monitoring and enforcing trade agreements.

Table 4: Estimated Full-Time Equivalent (FTE) Staff and Funding U.S. Agencies Used for Monitoring and Enforcing Trade Agreements, Fiscal Year 2016

Agency	Staff resources	Funding for FTE salaries/benefits
	Full-time equivalents	Dollars in thousands ^a
International Trade Administration, Department of Commerce	277	\$46,500
Foreign Agricultural Service, Department of Agriculture	175	18,200
Office of the U.S. Trade Representative ^b	117	21,500
U.S. Customs and Border Protection, Department of Homeland Security	102	12,100
Bureau of Economic and Business Affairs, Department of State ^c	21	2,800
Bureau of International Labor Affairs, Department of Labor	10	1,200
U.S. Immigration and Customs Enforcement, Department of Homeland Security	8	1,300
Bureau of Oceans and International Environmental and Scientific Affairs, Department of State ^c	7	900
National Institute of Standards and Technology, Department of Commerce	2	300
U.S. Patent and Trademark Office, Department of Commerce	2	300
Bureau of Democracy, Human Rights, and Labor, Department of State ^c	1	100

Source: GAO analysis of U.S. agency information. | GAO-17-399

^aDollars are rounded to the nearest hundred thousand.

^bOffice of the U.S. Trade Representative (USTR) estimates do not include time spent by 23 detailees from other agencies. Detailees' staff time related to monitoring and enforcing trade agreements in fiscal year 2016 amounted to about 15 additional FTEs, according to a USTR official.

^cDepartment of State (State) estimates do not include efforts of overseas Foreign Service officers who may play a significant role in monitoring and enforcement of trade agreements. For example, State has over 600 economic officer positions in the Foreign Service that may have trade-related responsibilities as part of their portfolios. However, State officials said that they do not have the means to track the time, which may vary widely, that the overseas officers spend on these responsibilities.

However, these totals and the underlying estimates do not fully include all costs related to trade monitoring and enforcement and, for some agencies, may not represent all staff who were involved in such activities. With respect to costs, some agencies could not accurately estimate

administrative overhead costs. Consequently, we were unable to capture administrative overhead costs consistently across agencies and could not include those costs as part of the funding estimates.

With respect to staff, many of the agencies responsible for monitoring and enforcing trade agreements rely on overseas staff, in addition to headquarters staff, to support these efforts. These overseas staff also work on other issues besides trade agreement monitoring and enforcement. Some, but not all, agencies were able to estimate the share of time their overseas staff spent on trade agreement monitoring and enforcement. For example, the International Trade Administration (ITA), which is part of Commerce, told us that its Foreign Commercial Service (FCS) contributes significant staff time to monitoring and enforcement of trade agreements, which complements the work of ITA's headquarters staff. According to ITA's estimate, FCS has 970 officers and locally employed staff, based overseas, who spent an average of 13 percent of their time on monitoring and enforcement activities in fiscal year 2016. Similarly, the Foreign Agricultural Service (FAS), which is part of USDA, estimated that 285 of its overseas workforce of 456 FAS officers and locally employed staff spent a share of their time on monitoring and enforcement efforts in fiscal year 2016.

In contrast, State officials said that, although they relied on State's workforce of overseas Foreign Service officers to carry out monitoring and enforcement efforts in fiscal year 2016, they had no method to estimate the share of time these officers spent on these efforts. State officials told us that State has over 600 economic officer positions at overseas posts throughout the world that may include trade monitoring and enforcement among their responsibilities. The role of these officers varies widely, depending on the unique circumstances of the post. For instance, posts without the presence of FAS or FCS officers may rely more heavily on State Foreign Service officers.¹² State officials also noted that the department has labor officers and environment, science, technology, and health officers based overseas who may participate in monitoring and enforcing partner countries' implementation of labor and environment chapters of FTAs.

¹²According to officials, FCS and FAS officers based overseas are responsible for engaging directly with foreign governments and assisting in monitoring their trade policies and resolving trade barriers. They also have other responsibilities, such as promoting U.S. exports to foreign markets.

USAID, State, and DOL Provided Trade Capacity-Building Assistance to FTA Partner Countries

Trade Capacity-Building Project Funding Spanned Multiple Agencies and Years

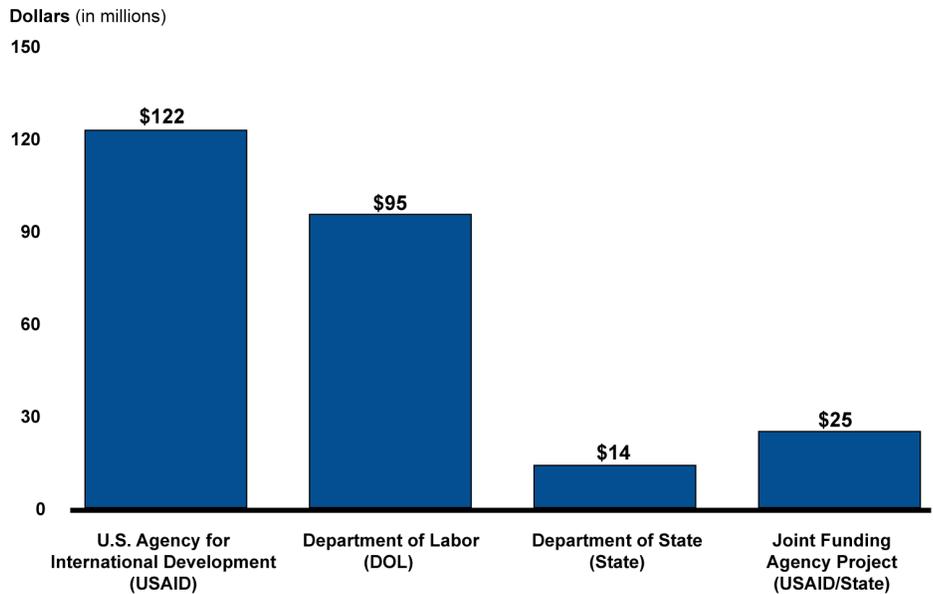
USAID, State, and DOL had 80 trade capacity-building assistance projects¹³ active in fiscal year 2016 that supported FTA partner countries' compliance with their FTA obligations.¹⁴ The total funding for these projects was about \$256 million. USAID, DOL, and State obligated about \$122 million, \$95 million, and \$14 million, respectively.¹⁵ In addition, State and USAID jointly funded one environmental project totaling about \$25 million (see fig. 1).

¹³Distribution of the 80 trade capacity-building projects active in fiscal year 2016 included 13 funded by USAID, 42 funded by State, 24 funded by DOL, and 1 jointly funded by State and USAID.

¹⁴This report solely identifies trade capacity-building projects related to FTAs. We previously reported on all U.S. trade capacity-building projects worldwide. See GAO, *Foreign Assistance: USAID Should Update Its Trade Capacity-Building Strategy*, [GAO-14-602](#) (Washington, D.C.: Aug. 12, 2014).

¹⁵Funding data for DOL and State represent obligated funds. In addition to including obligated funds, USAID's funding data also include planned future funding that, according to USAID, would depend on future appropriations from Congress and subsequent obligation by USAID.

Figure 1: Total Funding Amounts for Trade Capacity-Building Projects Active in Free Trade Agreement Partner Countries during Fiscal Year 2016, by Agency



Source: GAO analysis of data provided by State, DOL, and USAID. | GAO-17-399

Note: The figures shown here represent the total project amounts for trade capacity-building projects active in fiscal year 2016 that existed in free trade agreement (FTA) countries. These project amounts generally represent obligated funds. However, funding data from USAID included both obligated amounts and planned funding that, according to USAID, would depend on future appropriations from Congress and subsequent obligation by USAID. These projects typically spanned more than 1 fiscal year. The source funding for the projects active in fiscal year 2016 often came from prior fiscal years. DOL's and State's projects were specifically dedicated to helping FTA partner countries meet their obligations under the FTAs, according to DOL and State officials. Funding for USAID's projects supported goals related to helping countries meet FTA obligations as well as broader capacity-building goals in these countries, according to USAID officials. USAID could not separate funding amounts for assistance related to broader goals from assistance related to FTA obligations.

Total funding amounts for the 80 projects ranged from \$64,000 to almost \$35 million per project. For example, State dedicated \$64,000 to a trade capacity-building project, operating during 5 fiscal years, related to environmental obligations under the United States–Chile Free Trade Agreement. USAID obligated almost \$35 million to an environmental project, operating during 6 fiscal years, which included trade capacity-building aspects of the United States–Peru Trade Promotion Agreement. Trade capacity-building projects active in fiscal year 2016 supported activities in 14 countries that were parties to the following 9 of the 14 U.S. FTAs:

-
- The Dominican Republic – Central American – United States Free Trade Agreement (CAFTA-DR)
 - United States – Chile Free Trade Agreement
 - United States – Colombia Trade Promotion Agreement
 - Agreement between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area
 - United States – Morocco Free Trade Agreement
 - North American Free Trade Agreement (NAFTA) (Mexico only)
 - Agreement between the Government of the United States of America and the Government of the Sultanate of Oman on the Establishment of Free Trade Area
 - Panama Free Trade Agreement
 - United States – Peru Trade Promotion Agreement

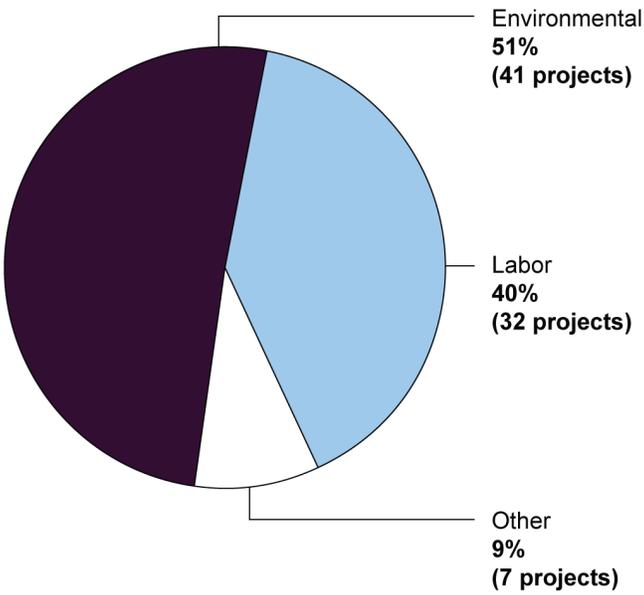
The most active trade capacity-building projects during fiscal year 2016—34 active projects—occurred in CAFTA-DR countries, while the fewest—3 active projects—occurred in Mexico. Some trade capacity-building projects involved multiple FTA partner countries. For example, a DOL project involved countries from the CAFTA-DR, NAFTA, Jordan, and Morocco FTAs.

Most Capacity-Building Projects for FTA Partner Countries Addressed Labor and Environmental Commitments

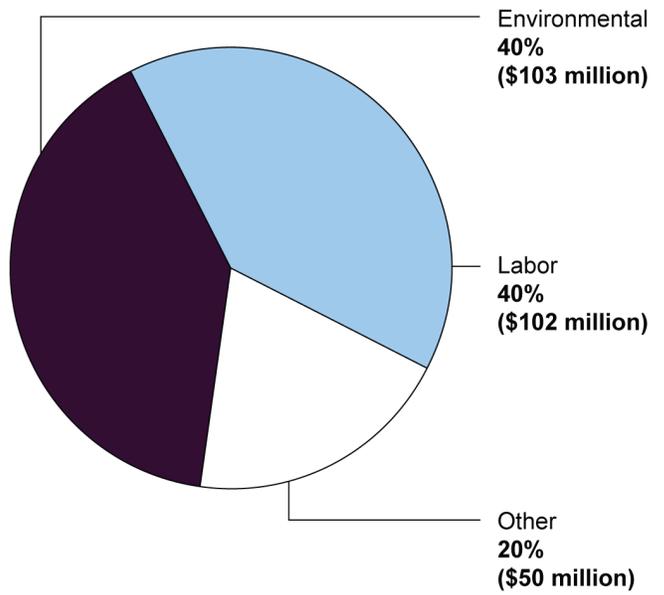
Of the trade capacity-building projects active in fiscal year 2016, the majority—both in terms of the number of projects and the amount of funding—focused on labor and environmental issues. Forty-one (51 percent) and 32 (40 percent) of the 80 trade capacity-building projects were related to labor or the environment, respectively. DOL and State oversaw the most labor and environmental trade capacity-building projects, respectively. Specifically, DOL oversaw 24 labor-related trade capacity-building projects, while State oversaw 35 environmentally related projects. Labor and environmental trade capacity-building projects also received about 80 percent of the total funding for projects active in fiscal year 2016. Figure 2 shows the breakdown of trade capacity-building projects and funding by project objective.

Figure 2: Distribution of Agencies' 80 Trade Capacity-Building Projects Active in Free Trade Agreement Partner Countries in Fiscal Year 2016, by Project Objective

Total projects by objective



Total funding by objective



Source: GAO analysis of data provided by the Departments of Labor and State, and the U.S. Agency for International Development. | GAO-17-399

Note: The "Other" category consists of seven projects that were funded by the U.S. Agency for International Development and included assistance for trade facilitation and implementation, enterprise development, and food safety and agricultural sustainability training.

Labor and environmental projects covered a wide range of issues within FTA partner countries. For example, State oversaw environmental projects related to combating illegal logging in CAFTA-DR countries and improving fisheries management in Chile. DOL oversaw labor projects related to ending child labor in Jordan, Colombia, Morocco, Peru, Panama, and CAFTA-DR countries as well as promoting international labor standards in Colombia.

According to agency officials, some of the trade capacity-building projects included goals to assist FTA partner countries in meeting their FTA obligations in addition to other goals. Some of these projects also included countries with which the United States does not have an FTA. For example, a DOL project on child labor issues had 45 participating countries, of which 5 were FTA partner countries. According to USAID officials, all of USAID's trade capacity-building projects that were active in

fiscal year 2016 included goals to help FTA partner countries meet their FTA obligations; however, all projects also included broader goals not related to FTA obligations. For example, USAID's active project "Implementing Anti-Monopoly Policies" in Mexico had a total funding of about \$615,000 but was part of a larger USAID-funded capacity-building project in Mexico that received about \$22.3 million in total project funding. According to DOL officials, all DOL projects in FTA partner countries contributed to helping FTA partner countries meet their FTA labor obligations. State officials noted that State's labor projects only included goals related to FTA labor obligations.

Agency Comments

We provided a draft of this report to USDA, Commerce, DHS, DOL, State, USAID, and USTR for their review. None of these agencies provided formal comments. USDA, Commerce, DOL, and USTR provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to interested congressional committees; the Secretaries of Agriculture, Commerce, Homeland Security, Labor, and State; the U.S. Trade Representative; and the USAID Administrator. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8612 or gianopoulosk@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 key contributions to this report are listed in appendix II.



Kimberly Gianopoulos
Director, International Affairs and Trade

Appendix I: Scope and Methodology

To determine which agencies may have committed resources for monitoring and enforcing trade agreements in fiscal year 2016, we reviewed agencies' budget reports, strategic plans, and annual reports and interviewed relevant agency officials. In total, we determined that 11 offices or bureaus within the Office of the U.S. Trade Representative (USTR) and the Departments of Agriculture (USDA), Commerce (Commerce), Homeland Security (DHS), Labor (DOL), and State (State) had committed resources to monitor and enforce trade agreements.¹ To solicit these agencies' estimates of staff resources and funding and to identify the types of monitoring and enforcement activities involved, we developed a data collection instrument that we sent to the agencies. We first pretested the instrument with USTR, the International Trade Administration (ITA) in Commerce, and the Foreign Agricultural Service (FAS) in USDA. We refined our data collection instrument based on discussions with officials at these agencies and then circulated it for completion to all the relevant agencies we had identified. Some agencies provided separate responses from multiple units with responsibility for monitoring and enforcement, which we then summed up. For example, we received separate responses from three units within FAS and three units within ITA and provided the sum of those responses for each agency.²

Because none of the relevant agencies routinely tracks staff resources and funding specifically for monitoring and enforcement of trade agreements, these agencies had to develop estimates of their fiscal year 2016 full-time equivalents (FTE) and funding used for these activities in response to our request for information. As many agency staff responsible for monitoring and enforcement of trade agreements also had other responsibilities, agencies had to estimate the portion of staff time spent on monitoring and enforcement to develop their FTE estimates. Officials reported a range of approaches to estimating staff time, including referring to data in staff surveys, reviewing staff portfolios and work descriptions, and holding discussions with managers. Moreover, limitations in the available data also required agencies to rely on their professional judgment to estimate the average amount of time that their staff spent on monitoring and enforcement. For example, ITA estimated

¹We also met with officials from the Department of the Treasury, the National Oceanic and Atmospheric Administration in Commerce, and the International Trade Commission, who told us that they did not commit any significant resources for this purpose.

²FAS and ITA each have headquarters-based units that work on monitoring and enforcement of trade agreements along with their overseas workforces.

that its Foreign Commercial Service, based overseas, devoted about 13 percent of its time to activities related to monitoring and enforcing trade agreements, whereas State told us that it could not confidently estimate the share of time its Foreign Service officers spent on activities related to monitoring and enforcing trade agreements within their portfolios. Consequently, FTE and funding estimates for State offices only include headquarters staff.

While other agencies generally had to estimate the portion of time their staff spent on monitoring and enforcement, U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) based their FTE estimates on accounting code charges for specific activities during fiscal year 2016 to monitor and enforce trade agreements. CBP based its FTE estimate mainly on time spent conducting verifications of free trade agreement (FTA) claims by importers and overseas inspections of textile factories to validate production capacities in connection with FTA rules.³ ICE's FTE estimate was based on the number of investigative hours attributed to FTA fraud investigations.⁴

Agencies' estimates of funding associated with their FTE estimates generally reflected the average annual salaries and benefits of the staff involved. Some of the agencies could not accurately estimate administrative overhead costs associated with monitoring and enforcement of trade agreements; therefore, we were unable to include administrative overhead costs consistently across agencies and are not including those costs as part of the funding estimates.

To assess the reliability of agencies' FTE and funding estimates for monitoring and enforcement of trade agreements, we included questions in our data collection instrument about their methodologies for developing their estimates, the agency officials they consulted, and the strengths and

³CBP has over 900 "import specialists" based in the United States who may be called on to conduct these verifications and textile factory visits. CBP's Office of Field Operations has a mechanism in place to track time spent by import specialists in conducting verifications of claims made under FTAs and trade preference programs, according to CBP officials.

⁴ICE criminal investigators in domestic field units and in overseas posts may be called on to investigate a variety of trade fraud schemes, including fraud related to FTAs. ICE's Investigative Case Management System tracks the number of investigative hours for investigative categories, according to ICE officials.

weaknesses of their estimates. In addition, based on our review of the agencies' responses to our data collection instrument, we asked follow-up questions to the agencies as needed. A key limitation was the lack of data systems that record staff time on these activities and the reliance on self-reporting or judgments of unit managers to estimate the share of time staff spent on monitoring and enforcement activities. In addition, USTR officials noted that time spent on monitoring and enforcement was likely to vary widely from year to year depending on demands created by other responsibilities such as trade negotiations or urgent trade disputes. Nevertheless, based on our analysis of the agencies' responses, we determined that these estimates could be used to provide a broad indication of the FTEs and staff costs in fiscal year 2016 across agencies, but that they could not be reliably used to make precise comparisons.

To identify U.S. trade capacity-building assistance projects to help partner countries meet their obligations under FTAs, we collected available information on relevant trade capacity-building projects that were active in 2016. State, DOL, and the U.S. Agency for International Development (USAID) were the three agencies that provided funding for active projects in fiscal year 2016.⁵ We identified the recipient FTA partner countries and subject matter focus of the projects, such as assistance with meeting labor or environment obligations, and calculated total funding for projects within FTA partner countries. We did not assess the implementation or effectiveness of these projects. State provided data on obligated funding that was directly tied to assisting FTA partner countries in meeting their FTA obligations. DOL provided data on obligated funding that contributed to helping FTA partner countries meet their FTA labor obligations. USAID provided data on obligated or planned funding amounts for projects in FTA partner countries but could not isolate amounts specifically related to FTA implementation from broader capacity-building goals, according to USAID officials.

To assess the reliability of data on trade capacity-building projects, we compared information provided by these agencies with source databases, discussed discrepancies with agency officials, and reviewed agencies' procedures for assessing the completeness and accuracy of the project data collection and storage. We determined that the data we obtained were sufficiently reliable for the purposes of our review.

⁵In some instances, U.S. agencies—such as the U.S. Forest Service and the Environmental Protection Agency—implemented but did not fund the projects.

We conducted this performance audit from May 2016 to April 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgements

In addition to the individual named above, Joyee Dasgupta (Assistant Director), Howard Cott (Analyst-in-Charge), Lynn Cothorn, Martin de Alteriis, Neil Doherty, Grace Lui, and Ian P. Moloney made significant contributions to this report.

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