

GAO

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

October 2010

**INSPECTORS
GENERAL**

**Continued Actions
Needed to Strengthen
IG Oversight of the
United States
International Trade
Commission**



GAO

Accountability * Integrity * Reliability

Why GAO Did This Study

Inspectors general (IG) are to provide independent and objective oversight; however, the United States International Trade Commission (USITC) has relied on acting and temporary IGs for an extended period of time. GAO was asked to determine (1) the extent of oversight provided by the USITC IG, (2) the budget and staffing resources available for oversight, and (3) how the role of the IG is addressed in the governance of USITC. To accomplish these objectives, GAO reviewed USITC IG reports and budgets for fiscal years 2005 through 2009, and relevant policies and procedures regarding governance and accountability. GAO also interviewed the USITC Chairman, Commissioners, current and former acting and temporary IGs, and office directors.

What GAO Recommends

GAO is making a recommendation to the USITC IG to prepare a staffing analysis as part of audit planning to determine the resources needed for effective oversight of USITC. GAO is also making recommendations to the USITC Chairman aimed at clarifying and communicating the authorities and responsibilities of the IG.

In comments on a draft of the report, the USITC Chairman concurred with GAO's recommendations and stated corrective actions had been implemented. GAO agrees that one recommendation was fully implemented; however, additional actions are required to implement the remaining recommendations.

INSPECTORS GENERAL

Continued Actions Needed to Strengthen IG Oversight of the United States International Trade Commission

What GAO Found

The IG Act of 1978, as amended (IG Act), requires IGs to provide independent audits and investigations of the programs, offices, and activities in their respective federal entities. However, during the 5-year period reviewed, the USITC IG office conducted no audits and had no investigative case files or investigative reports of USITC. The IG office's oversight activities consisted primarily of monitoring and reviewing the work of independent public accountants (IPA) who conducted annual mandatory audits of USITC's financial statements and information security programs and practices. The most recent peer review of the USITC IG office's audit quality concluded that an opinion could not be rendered on the audit organization because no audits had been conducted by the IG in the past 5 years.

The IG Act requires the designated federal entity heads to appoint an IG and provide adequate budgetary resources and sufficient staff. Both the lack of an appointed IG and constrained IG office budgets and staffing resources contributed to the limited oversight of USITC. From November 1, 2005, through December 5, 2009, USITC relied on acting IGs and a temporary IG to provide oversight. During this period the IG position was vacant for 17 months with no acting or temporary IG while USITC relied on the Assistant IG for Audits to provide oversight. Between fiscal years 2005 and 2009, the USITC budget increased about 23 percent, but the IG office budget resources remained relatively flat with funds only available for IPA-conducted audits and two staff during the last 4 years reviewed. The lack of comprehensive audit plans by the acting and temporary IGs to fully communicate their resource needs to USITC contributed to inadequate IG office resources and resulted in limited oversight. In fiscal year 2010, USITC appointed a Senior Executive Service-level IG to address requirements of the IG Reform Act of 2008. Also, consistent with the act, USITC provided a fiscal year 2010 IG office budget based on discussions with the current IG, which increased staffing and was certified by the IG as adequate. The IG stated that future oversight may require additional resources, which we believe can be communicated and justified by a staffing analysis as part of IG audit planning.

The IG Act provides each IG with protections of independence including the authority for access to all entity documents and records. In addition, the IG is required to refer cases with potential violations of federal criminal law to the Attorney General. We found instances where the governance structure did not fully support the temporary USITC IG's responsibilities. Specifically, during 2009, the temporary IG was unable to obtain timely access to sensitive contract documents because USITC's policies and procedures did not clearly provide for IG access to such documents. The orientation book for the Commissioners, who may not have prior federal service, does not contain information about the USITC IG's authorities and responsibilities. In another instance, due to the lack of a formal policy or other agreement with the IG office, the Chairman referred the results of a possible criminal investigation to the Department of Justice (DOJ) without coordinating with the temporary IG, resulting in the potential for duplication of investigative efforts.

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Abbreviations

AIGA	Assistant IG for Audits
CIGIE	Council of the Inspectors General on Integrity and Efficiency
DFE	designated federal entity
DOJ	Department of Justice
FISMA	Federal Information Security Management Act of 2002
FTE	full-time equivalent
HTS	Harmonized Tariff Schedule of the United States
IG	Inspector General
IG Act	Inspector General Act of 1978, as amended
IPA	independent public accountants
IRS	Internal Revenue Service
MOU	memorandum of understanding
OMB	Office of Management and Budget
SES	Senior Executive Service
TIGTA	Treasury IG for Tax Administration
USITC	United States International Trade Commission

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United States Government Accountability Office
Washington, DC 20548

October 22, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate

Dear Senator Grassley:

Inspectors General (IG) have a unique role within their agencies to identify areas for improved economy, efficiency, and effectiveness through independent and objective oversight; prevent and detect fraud, waste, abuse, and mismanagement; and recommend corrective actions. In order to fulfill their mission, IGs are expected to provide adequate oversight of their agencies while maintaining a properly balanced and independent working relationship with their agency heads and Congress.

The U.S. International Trade Commission (USITC) is an independent federal agency with broad investigative responsibilities on matters of trade, and its IG has oversight responsibilities for USITC's operations. However, factors such as reliance on acting and temporary IGs for an extended period of time resulted in your concerns about the ability of the USITC IG to provide adequate oversight. Reflecting your interest in ensuring the independence and effectiveness of IGs, you asked GAO to review (1) the extent of oversight provided by the USITC IG, (2) the budget and staffing resources available to the IG office for oversight, and (3) how the role of the IG is addressed through management and governance of USITC.

To address these objectives, we reviewed the USITC IG office's oversight for fiscal years 2005 through 2009, by obtaining copies of all IG audit reports and the semiannual reports to Congress and analyzing the nature and extent of the audits performed. We reviewed internal USITC budget documents to determine the resources available to the commission and the IG office for the 5-year period and interviewed the current IG and three former IGs who served in either an acting or temporary capacity to gain an understanding of their available resources and staffing needs. We also obtained information on program operations and the IG office oversight from interviews with all USITC program directors directly responsible for international trade issues and additional directors responsible for areas of administrative support. In addition, we obtained information about the governance of USITC by reviewing relevant policies, procedures, reports,

and other documents; and by interviewing the USITC Chairman and Commissioners. For a detailed description of our scope and methodology, see appendix I.

We obtained comments on a draft of this report from the USITC Chairman, which are reprinted in appendix III. A summary of the Chairman's comments and our response are presented in the Agency Comments and Our Evaluation section of this report.

Background

Congress established the basic functions of USITC on September 8, 1916, as the U.S. Tariff Commission.¹ In 1975, the name was changed to the U.S. International Trade Commission by section 171 of the Trade Act of 1974.² USITC is headed by six Commissioners who are appointed by the President and confirmed by the Senate for terms of 9 years, unless appointed to fill an unexpired term. The terms are set by statute and are staggered so that a different term expires every 18 months. No more than three Commissioners may be members of the same political party. From among the appointed Commissioners in office, the President designates a Chairman and Vice Chairman to each serve for a 2-year term. The Chairman may not be of the same political party as the preceding Chairman, and the Chairman and the Vice Chairman may not be of the same political party. The Chairman is responsible, within statutory limits, for the administrative functions of USITC.

The mission of USITC is to (1) administer U.S. trade remedy laws within its mandate; (2) provide the President, the U.S. Trade Representative, and Congress with independent high-quality analysis, information, and support on matters relating to tariffs and international trade and competitiveness; and (3) maintain the Harmonized Tariff Schedule of the United States (HTS).³ Through the Director of Operations, five offices—Offices of Economics, Industries, Investigations, Tariff Affairs and Trade Agreements, and Unfair Import Investigation—are responsible for USITC's

¹Pub. L. No. 64-271, 39 Stat. 756, 795 (Sept. 8, 1916), codified at 19 U.S.C. § 1330.

²Pub. L. No. 93-618, 88 Stat. 1978, 2009 (Jan. 3, 1975), codified at 19 U.S.C. § 2231.

³The Harmonized Tariff Schedule of the United States (HTS) was enacted by Congress and made effective on January 1, 1989, replacing the former Tariff Schedules of the United States. The HTS comprises a hierarchical structure for describing all goods in trade for duty, quota, and statistical purposes.

operations regarding international trade. See appendix II for additional information on USITC operations.

The Inspector General Act of 1978 (IG Act), as amended, provides the legal foundation for the federal executive branch IG offices.⁴ Currently there are 59 IGs established by the IG Act throughout the executive branch with broad authority to conduct independent audits and investigations.⁵ Of the 59 IGs, the President, with the advice and consent of the Senate, appointed 29. These presidentially appointed IGs may only be removed by the President. The other 30 IG Offices were established by the 1988 amendments to the IG Act in designated federal entities (DFE) named in the legislation.⁶ The USITC IG is one of the 30 DFE IGs. Generally, the DFE IGs have the same authorities and responsibilities as those IGs established by the original IG Act of 1978; however, they are appointed and may be removed by their entity heads rather than by the President and are not subject to Senate confirmation. For purposes of the IG Act, the USITC Chairman was the head of USITC during our review period.⁷

The act provides the IGs with independence by authorizing them, among other things, to select and employ their own staffs, make such investigations and reports as they deem necessary, and report the results of their work directly to Congress. In addition, the IG Act provides the IGs with a right of access to information, and prohibits interference with IG audits or investigations by agency personnel. The act further provides the IGs with the duty to inform the Attorney General of suspected violations of federal criminal law.

Congress passed the IG Reform Act of 2008 (IG Reform Act) to further enhance IG independence and accountability.⁸ The act maintains the framework and IG community that existed under the IG Act and adds authorities and requirements to help build a stronger, more independent, professional, and accountable IG community. The act requires that the

⁴Pub. L. No. 95-452, 92 Stat. 1101 (Oct. 12, 1978), codified as amended at 5 U.S.C. App.

⁵Laws similar to the IG Act have established additional IG offices.

⁶Pub. L. No. 100-504, 102 Stat. 2515 (Oct. 18, 1988).

⁷See 5 U.S.C. § 8G and 74 Fed. Reg. 3656 (Jan. 21, 2009). Effective July 21, 2010, the commission is designated as the head of USITC for purposes of the IG Act. See Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010).

⁸Pub. L. No. 110-409, 122 Stat. 4302 (Oct. 14, 2008).

heads of entities, including USITC, and the President, for those IGs appointed by the President, inform both houses of Congress 30 days before taking actions to remove or transfer an IG. The act also provides a statutory process for handling allegations of wrongdoing by IGs so that such reviews are not done by the same management officials who are subject to IG oversight.

The IG Reform Act also specifies that DFE IGs, such as the USITC IG, be classified at a grade level or rank designation at or above those of a majority of the senior-level executives of the DFE. It requires the head of each DFE to transmit proposed budgets to the President with an aggregate request for the IG, amounts for IG training, and amounts for the support of the Council of the Inspectors General on Integrity and Efficiency (CIGIE).⁹ In addition, the IG is to provide certification that the amount requested satisfies all training requirements for the IG for that fiscal year and any resources necessary to support the activities of CIGIE.

USITC IG Conducted Limited Oversight Activities during Fiscal Years 2005 through 2009

The IG Act requires IGs to provide independent audits and investigations of the programs, offices, and activities of their respective federal entities. However, during fiscal years 2005 through 2009 the USITC IG office did not conduct any audits, and provided no investigative case files or reports to indicate that any investigations had been performed. The IG office's oversight of USITC consisted primarily of monitoring and reviewing the work of independent public accountants (IPA) who conducted mandatory audits of USITC's financial statements and information security as required by specific statutes.¹⁰ The IPAs performed these audits under contract with the acting and temporary IGs during this 5-year period with no additional audits conducted by these IGs. The most recent peer review of the IG office's audit quality, performed by the National Archives and Records Administration IG, concluded in a May 12, 2010, report that an

⁹CIGIE, consisting mainly of IGs, was established by the IG Reform Act to address integrity, economy, and effectiveness issues that transcend individual government agencies, and to increase the professionalism and effectiveness of personnel in the IG offices.

¹⁰The Accountability of Tax Dollars Act of 2002 (Pub. L. No. 107-289, 116 Stat. 2049 (Nov. 7, 2002)), codified at 31 U.S.C. § 3515) requires USITC to issue annual financial statements that the USITC IG or an auditor selected by the USITC IG shall audit. See 31 U.S.C. § 3521 (e). The E-Government Act of 2002 includes, in Title III, the Federal Information Security Management Act of 2002 (FISMA) (Pub. L. No. 107-347, 116 Stat. 2899 (Dec. 17, 2002)); see 44 U.S.C. § 101 note), which requires USITC to have an annual independent evaluation performed of its information security programs and practices.

opinion could not be expressed on the audit organization because no audits had been conducted in the past 5 years.

The USITC IG office also did not provide audits or perform follow-up in areas with weaknesses identified by the IPAs' audits. Specifically, the audit of USITC's fiscal year 2009 financial statements resulted in a disclaimer of opinion by the IPA due to the lack of sufficient evidence to support the amounts presented in the financial statements. The IPA also noted a number of material and significant issues surrounding internal control and concluded that USITC was not able to comply with the requirements of the Federal Managers' Financial Integrity Act.¹¹ The Chairman and the Director of the Office of Finance stated that the audit results primarily stemmed from the implementation of a new financial system at the beginning of fiscal year 2009. However, the IG's office had not performed audits or other oversight of the new system and its implementation or related internal control.

In USITC's annual *Performance and Accountability Report*, issued for each year of our review, the IG office identified management challenges related to USITC's procurement and contract management, financial management, human capital management plan, and budget and performance integration.¹² Issues related to USITC's financial management were annually audited through mandatory audits performed by IPAs. However, the remaining management challenges were not audited by the IG office, and therefore have not received audit recommendations for corrective actions to address these identified weaknesses. (See table 1.)

¹¹31 U.S.C. § 3512 (c), (d), commonly known as the Federal Managers' Financial Integrity Act of 1982, requires executive agencies to establish and evaluate internal accounting and administrative controls.

¹²The identification of management challenges by the IGs began in 1997 when congressional leaders asked the IGs to identify the 10 most serious management problems in their respective agencies. This request began a yearly process that continues as a result of the Reports Consolidation Act of 2000, which requires executive agencies to include their IGs' lists of significant management challenges in their annual performance and accountability reports to the President, the Office of Management and Budget, and Congress. See Pub. L. No. 106-531, 114 Stat. 2537 (Nov. 22, 2000), codified at 31 U.S.C. § 3516 (d).

Table 1: Audits of Management Challenges over Fiscal Years 2005–2009

Management challenges	Fiscal year				
	2005	2006	2007	2008	2009
Improved financial performance ^a	X	X	X	X	X
Information technology security ^b	X	X	X	X	X
Strategic human capital plan	-	-	-	-	-
Procurement and contracting	-	-	n.a.	n.a.	-
Budget and performance integration	-	-	-	n.a.	n.a.

Source: USITC.

Notes:

X indicates areas audited by an IPA

- indicates unaudited areas

n.a. indicates unaudited areas not reported as management challenges in the years specified and that therefore were not applicable. Data are from IG semiannual reports and USITC performance and accountability reports for fiscal years 2005 through 2009.

^aAnnual IPA audits of USITC’s financial statements addressed this management challenge.

^bAnnual IPA audits of USITC’s requirements under the Federal Information Security Management Act of 2002 (FISMA) addressed this management challenge and high-risk area.

Performance audits and other IG oversight activities can provide managers, and those charged with governance, with information regarding the economy, efficiency, and effectiveness of the programs, offices, and activities reviewed, and may include assessments of internal control, compliance, and prospective analyses. The USITC IG office’s limited oversight of the programs, offices, and activities responsible for the fundamental mission of USITC regarding international trade resulted in a lack of valuable audit information for management to help improve program performance and operations, reduce costs, facilitate decision making, oversee or initiate corrective action, and contribute to accountability.

USITC Lacked an Appointed IG and Adequate Staff Resources Prior to Fiscal Year 2010

The IG Act requires designated entity heads to appoint an IG and provide adequate budgetary resources and sufficient staff for the IG’s office to conduct independent audits and investigations. USITC lacked an appointed IG and did not provide the IG office with adequate budget and staff resources for fiscal years 2005 through 2009. This contributed significantly to the IG office’s limited oversight of USITC and the lack of audits and investigations. However, in fiscal year 2010, the USITC Chairman appointed an IG and provided additional resources to the IG office due, in part, to the requirements of the IG Reform Act.

The USITC IG Position Was Filled by Acting and Temporary IGs for an Extended Period before Appointment of the Current IG

For over 4 years, between November 2005 and December 2009, the USITC relied on acting IGs and a temporary IG to provide oversight. In addition, for a period of 17 months during this time—from March 2006 until August 2007—the USITC IG position was vacant. Specifically, when the IG retired in October 31, 2005, the Chairman designated the Assistant IG for Audits (AIGA) to serve as acting IG. When the acting IG position expired in March 2006, the Chairman sought to hire a new IG instead of renewing the acting IG position. Although the USITC continued to rely upon the AIGA to fulfill the requirements and responsibilities of the IG, the IG position was vacant. The Chairman renewed the AIGA's acting IG position in August 2007—17 months after it had expired.

The AIGA reported the vacant IG position in each of the semiannual reports over this 17-month period. During this period, the AIGA did not have the full statutory protections of independence and stated authorities under the IG Act to provide audits and investigations; promote economy, efficiency, and effectiveness; prevent and detect fraud and abuse; and recommend actions for improvement to USITC.

In January 2008, the Chairman selected a former USITC budget officer to serve as a temporary IG not to exceed 6 months of service, which was extended for another 6 months starting in June 2008. In January 2009, USITC extended the temporary IG position for another 6 months while the Chairman and Commissioners studied how to implement the IG Reform Act, which requires that DFE IGs, such as the USITC IG, be classified at a pay level at or above a majority of the senior-level executives of the DFE. In June 2009, USITC published a vacancy announcement for a permanent IG position at the Senior Executive Service (SES) level.¹³ The temporary IG was reassigned to another USITC office on August 16, 2009, and the AIGA from the IG Office of the Commodity Futures Trading Commission served as the acting USITC IG from August 17, 2009, to December 5, 2009. On December 6, 2009, the Chairman appointed the first Senior Executive Service (SES)-level USITC IG. See table 2 for a listing of the USITC IGs and their periods of service.

¹³Career SES members are those with civil service status who are appointed competitively to SES positions and serve in positions below the top political appointees in the executive branch of government.

Table 2: USITC IGs and Their Periods of Service

USITC IG	Position or title	Period of service
Jane Altenhofen	Inspector General	April 17, 1989–May 29, 1999
Dev Jagadesan	Acting Inspector General	May 30, 1999–July 14, 2001
Kenneth Clarke	Inspector General	July 15, 2001–October 31, 2005
Jean Smith	Acting Inspector General	November 1, 2005–March 11, 2006
Vacant	not applicable	March 12, 2006–August 18, 2007
Jean Smith	Acting Inspector General	August 19, 2007–December 19, 2007
Vacant	not applicable	December 20, 2007–January 5, 2008
Judith Gwynn	Temporary Inspector General (series of 6-month appointments)	January 6, 2008–August 16, 2009
Tony Baptiste	Acting Inspector General	August 17, 2009–December 5, 2009
Philip Heneghan	Inspector General	December 6, 2009–present

Sources: CIGIE; current and former acting and temporary USITC IGs; and Office of Personnel Management Standard Form 50, Notice of Personnel Action.

USITC IG Received Limited Resources Prior to Fiscal Year 2010

The only specific budget resources provided to the IG office during fiscal years 2005 through 2009 were the amounts for statutorily mandated audits performed by IPAs. Despite increases in the overall USITC budget, the IG office’s budget resources remained relatively flat and its staffing remained below its authorized levels. Between fiscal years 2005 and 2009, the USITC budget increased from \$61 million to \$75 million—approximately 23 percent—while the IG budget remained relatively constant. (See table 3.) A former acting IG stated that in order to perform any additional functions, including travel or training, she had to seek USITC’s permission for each additional expense. Although the acting and temporary IGs were authorized to have between three and four full-time equivalent (FTE) staff members (including themselves) during 4 of the 5 years reviewed, their offices did not receive the necessary funding to hire these authorized staff. The former acting and temporary IGs we contacted also explained that their oversight of USITC was limited because they did not have sufficient resources to audit areas other than those required by specific statutes.

Table 3: USITC and IG Budget and Staffing Resources for Fiscal Years 2005–2009

	Fiscal year				
	2005	2006	2007	2008	2009
Authorized IG FTEs	3.5	4	4	4	3
Actual IG FTEs	3.75	1.75	2	2	2
Authorized IG budgets for audit and contract services (dollars in thousands)	230	240	250	250	220
Actual USITC FTEs ^a	369	383	378.3	372.8	382.2
Actual USITC budget authority (dollars in millions)	61	62	62	68	75

Source: USITC.

^aUSITC FTEs are reported in work years.

Ensuring the adequacy of audit resources is ultimately a responsibility of the USITC Chairman. However, the USITC Commissioners told us that in the past they were not made fully aware of the IG office’s need for additional resources. The acting and temporary IGs had not prepared comprehensive audit plans over the 5-year period with a staffing analysis to justify additional budget and staffing resources and effectively communicate their resource needs. As part of a comprehensive audit plan, a staffing analysis provides the basis for determining the number and experience level of the audit staff needed, external service providers, financial support, technology-based audit techniques, and other resource needs such as training and travel.

Consistent with provisions of the IG Reform Act, the USITC budget request for fiscal year 2010 included IG budget information and the required IG certification that the amounts are sufficient for training and support of CIGIE activities. On the basis of discussions with the current IG, USITC approved an IG budget of \$816,837 with a total of 5 FTEs, including a legal counsel who is also expected to conduct investigations. With the assistance of the additional staff, the IG issued a series of audit reports with recommendations regarding information security and internal control.¹⁴ The current IG stated that future oversight may require additional resources.

¹⁴In addition to the statutorily required audits conducted by IPAs, the USITC IG issued four audit reports as of August 2010.

During our review, the current IG completed a strategic plan and an annual audit plan for fiscal year 2011. These plans define the USITC audit universe, provide goals for oversight, and specify the objectives and anticipated starting dates for individual audits including mandatory audits, audits of management challenges, and audits of program economy and efficiency. While these plans are an important first step, neither the high-level strategic plan nor the annual audit plan for the coming year provide a staffing analysis to identify the number of staff and other resources necessary for a comprehensive audit plan that communicates and justifies the IG budgets and staffing needed for USITC oversight.

Improvements Needed to Strengthen the IG's Role within USITC Governance

The IG Act provides each IG with protections of independence including the authority for access to all entity documents and records, and does not allow the entity head to prevent or prohibit the IG from initiating, carrying out, or completing any audit or investigation. In addition, the IG is required to refer cases with potential violations of federal criminal law to the Attorney General. These protections and responsibilities are necessary in large part because of the unique reporting requirements of the IGs, who are both subject to the general supervision of the heads of the agencies they audit while at the same time expected to provide reports of their work externally to Congress. During our review period, we found instances where USITC's governance structure did not fully support the acting and temporary IGs' responsibilities due to USITC's lack of clear policies surrounding IG access to information and the lack of coordination with the IG office when referring an investigative case to the Department of Justice (DOJ). The effectiveness and independence of IG's are closely related to the governance and accountability structure of the organization and the role that the IG plays within that structure. IGs must be able to operate independently within the governance framework at their respective entities in order to be effective.

USITC Needs Clarifying Guidance on IG Access to Documents

The IG Act provides the authority for IG access to all USITC documents and records, and also prohibits the agency head from preventing or prohibiting the IG from initiating, carrying out, or completing any audit or investigation. However, in 2009, the USITC IG was unable to obtain prompt access to original USITC contract documents during an inquiry into USITC procurement procedures because of the Chairman's uncertainty about the IG's authority to have access. In the April 2009 semiannual report to Congress, the temporary USITC IG stated that on March 5, 2009, a USITC employee removed certain procurement files from the possession of the IG without the IG's permission. The employee had

requested clarification from USITC management regarding the IG's access to the documents that the procurement office was responsible for safeguarding, but received no clear answer. Due to the lack of guidance from USITC management and the lack of a clear policy on IG access to documents, the IG's review was delayed until the issue was resolved, and the IG's inquiry ended without any record of an investigation.

Although USITC policies and procedures provide the IG with full access to all USITC documents, they do not specify the process to be followed to grant the IG access to original sensitive USITC documents that must be safeguarded. In the example cited above, after deliberations with the General Counsel, the Chairman provided the temporary IG access to the documents after a delay of almost 2 months. However, the Chairman included a written qualification that the IG's full access to USITC documents only applied to the specific files under the IG's immediate review. Consequently, future disagreements regarding the IG's access to USITC documents may occur until the IG's authority is specifically addressed by USITC policies and procedures.

The USITC program directors that we interviewed expressed their concerns for the safety and security of the business and trade information used during their international trade investigations and in the preparation of their reports. However, IG access to both information and individuals is essential for effective oversight and the IG Act specifically authorizes the IG to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material related to the programs and operations of an entity.

In addition, the Commissioners told us that although USITC provides an orientation book to inform newly appointed Commissioners about USITC's operations, this orientation information does not include a section on the authority and responsibilities of the IG. Because Commissioners are not always appointed from prior federal positions and may not be aware of the important statutory independence of IGs, an orientation book could include information to facilitate interactions with the IG by minimizing uncertainties regarding the unique authorities and responsibilities of the IG.

The USITC Chairman Did Not Always Coordinate Investigations with the IG Office

The IG Act requires the IG to report to the Attorney General whenever the IG has reasonable grounds to believe federal criminal law has been violated. The USITC Chairman also reports potential criminal violations to DOJ. On June 15, 2009, the USITC Chairman referred a possible criminal violation by a USITC employee to the Criminal Division of DOJ based on an investigation conducted by USITC's Chief Information Security Officer. The USITC Chairman neither informed the temporary IG of the investigation performed by USITC, nor of the referral of the case to DOJ. The lack of coordination could result in the duplication of efforts if both the Chairman and the IG were to investigate the same subject.

In order to avoid duplication of investigative efforts, other federal entities utilize a memorandum of understanding (MOU) or similar mechanism to require the sharing of investigative information between the IG and the entity. For example, the Treasury IG for Tax Administration (TIGTA) at the Internal Revenue Service (IRS) within the Department of the Treasury and the Chief of IRS Criminal Investigation have established an MOU that specifies the areas to be investigated by each office to ensure coordination while preventing duplication of efforts. A similar agreement between the USITC Chairman and the IG could decrease the potential risk of duplicative investigations.

Conclusions

Considering the need to enhance oversight of USITC, it is important that an independent, objective, and reliable IG structure be in place to provide adequate audit and investigative coverage of its programs, offices, and activities. Effective USITC governance and accountability require policies and procedures to help ensure that the activities of the IG are independent and the results are viewed as independent by Congress and other users of the IG's work. USITC has recently made progress towards improving governance and accountability; however, notwithstanding these advances, we believe it is important to build on and sustain the progress made in fiscal year 2010. Increased attention to USITC governance and accountability through the design and implementation of policies and procedures, and ongoing attention to the resource needs of the IG's office, would help to ensure that the activities of the IG are effective and independent.

Recommendations for Executive Action

We recommend that the USITC IG

- prepare a staffing analysis to determine the level of budget and staff resources needed to conduct the audits identified in audit plans,

including audits required by statutes; audits of management challenges identified by the IG; and performance audits of economy, efficiency, and effectiveness of USITC's programs, offices, and activities.

We recommend that the Chairman of USITC

- revise the policies and procedures for all offices and programs to recognize the authorities and responsibilities of the IG under the IG Act, including procedures for recognizing the IG's authority for access to USITC documents, records, and information;
- revise the formal written orientation information provided to the Commissioners to include sections on
 - the overall authorities and responsibilities of the IG;
 - the IG's authority and USITC's policies for IG access to USITC documents, records, and information; and
 - the responsibilities of the Chairman to maintain an appointed IG; and
- work with the IG to establish a memorandum of understanding (MOU) or similar mechanism to ensure that all USITC investigative matters that may cover areas also investigated by the IG are coordinated with the IG's office.

Agency Comments and Our Evaluation

We received written comments on a draft of this report from the USITC Chairman, which are reprinted in appendix III. The USITC Chairman stated that the agency is dedicated to ensuring the proper level of IG oversight and looked forward to working with the IG to achieve enhanced performance and accountability throughout USITC. The Chairman concurred with our recommendations and identified actions taken to implement them. We agree that USITC has fully addressed our recommendation to establish an MOU to ensure the agency and IG coordination of investigations of possible criminal violations; however, while USITC has taken steps to address the remaining recommendations, further corrective actions are necessary. Specifically, the USITC IG prepared a staffing analysis for fiscal year 2010 audits that allowed him to hire additional staff; however, we continue to recommend that the IG develop a staffing analysis to support the audits in future years identified by the IG's strategic plan. Also, although USITC prepared an MOU addressing the IG's authorities and responsibilities regarding access and custody of USITC records, USITC has yet to include this information in the policies and procedures for the offices subject to the IG's review. Further, USITC prepared an overview of the IG's authority and responsibilities to be included in the orientation of the USITC Commissioners, but has not yet provided a place for it in the formal orientation of the Commissioners.

As agreed with your office, unless you publicly announce the contents of this report earlier, we will not distribute it until 30 days from its date. At that time we will send copies of the report to the USITC Chairman; USITC IG; Deputy Director for Management, Office of Management and Budget; Chairman of the Senate Committee on Finance; and other parties. This report will also be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you have any questions or would like to discuss this report, please contact me at (202) 512-9095 or raglands@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Major contributors to this report are listed in appendix IV.

Sincerely yours,

A handwritten signature in black ink that reads "Susan Ragland". The signature is written in a cursive, flowing style.

Susan Ragland
Director, Financial Management and Assurance

Appendix I: Scope and Methodology

To determine the extent of oversight provided by the U.S. International Trade Commission (USITC) Inspectors General (IG) during fiscal years 2005 through 2009, we obtained and reviewed the results of the IGs' audit reports and investigative activity as reported in the IGs' semiannual reports to Congress for the 5-year period. We also identified the management challenges identified by the USITC IGs over the 5-year period. In addition, we compared IG audit activity to these reports over the same 5-year period to determine the nature and extent of oversight provided in areas of identified weaknesses. We further identified the programs and offices responsible for carrying out USITC's mission from relevant performance and accountability reports and compared them with the areas covered by the IG's audits.¹

We analyzed the budgets and staffing resources for the USITC IGs for fiscal years 2005 through 2009 by reviewing IG planning documents and budget requests to USITC management as well as internal entity budget documents. We also obtained USITC's overall budget and staffing from the President's Budget of the United States Government and compared USITC's budgets for the 5-year period to the IG's budgets. We also interviewed the current and former acting and temporary IGs who were in office from November 1, 2005, to the present time to gain an understanding of the conditions of their employment, obtained Office of Personnel Management documents to verify their employment status, and gained an understanding of the level of audit oversight provided based on available resources.

To determine how the role of the IG is addressed in the governance and management of USITC, we reviewed existing policies and procedures regarding the governance and management of USITC for accountability and regarding the IG; interviewed the Commissioners; and obtained information from the former acting and temporary IGs as well as the current IG. We also reviewed the statutory roles and responsibilities of the IG for independent audits and investigations as provided by the IG Act and noted where the activities of USITC governance were not consistent with the independence principles of the act. We reviewed the activities of USITC management regarding requirements for IG access to information by analyzing information obtained through interviews with USITC program directors, the former IGs, the USITC Chairman, former Chairmen,

¹USITC, *Performance and Accountability Report*, Fiscal Years 2005-2009 (Washington, D.C.: November 2005, November 2006, October 2007, November 2008, and November 2009).

and the Commissioners. We also reviewed internal USITC documents related to the deliberation of the roles and responsibilities of the IGs. To obtain information about the investigative case referred to the Department of Justice (DOJ), we interviewed the IG Counsel at the Treasury IG for Tax Administration, Internal Revenue Service, who provided legal counsel to the USITC IG office.

We conducted this performance audit from November 2009 to October 2010 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: Major USITC Operations, Offices, and Roles and Responsibilities

Information about the structure and activities of the U.S. International Trade Commission (USITC) is shown in table 4.

Table 4: Major USITC Operations, Offices, and Roles and Responsibilities

Offices responsible for USITC operations	Major USITC operations	Roles and responsibilities
Office of Investigations	Import injury investigations	To determine whether certain unfairly traded imports as well as increased imports injure or threaten to injure U.S. industries
Office of Unfair Import Investigations	Intellectual property–based import investigations	Investigations and actions against certain unfair practices in import trade, such as patent and trademark infringement
Office of Industries Office of Economics	Industry and economic analysis	Analyses of major trade-related issues, estimates of economic effects of trade agreements, and analysis of the competitiveness of specific industries
Office of Tariff Affairs and Trade Agreements	Tariff and trade information services	Development of reliable and timely trade information and analysis for the commission, Congress, the executive branch, and the general public

Source: USITC.

Additional USITC offices support the work of the five major operations shown in table 4:

- The Office of the Administrative Law Judges holds hearings and makes initial determinations in investigations of intellectual property–based imports.
- The Office of the General Counsel serves as the chief legal advisor.
- The Office of the Director of Operations provides supervision of USITC offices that provide the five major operations.
- The Office of External Relations develops and maintains a liaison between USITC and its diverse external customers.
- The Office of the Chief Information Officer provides information technology leadership including information security.
- The Office of the Director of Administration compiles and monitors the annual budget, and provides services for human capital, procurement, facilities management, and physical security.
- The Office of Equal Employment Opportunity administers the affirmative action program and advises the Chairman and the Commissioners on equal employment issues.
- The Office of the Secretary coordinates hearings and meetings and is responsible for official record keeping.

Appendix III: Comments from the Chairman, U.S. International Trade Commission

CHAIRMAN



UNITED STATES INTERNATIONAL TRADE COMMISSION

WASHINGTON, D.C. 20436

October 6, 2010

Ms. Susan Ragland
Director
Financial Management and Assurance
U.S. Government Accountability Office

Dear Ms. Ragland:

On behalf of the U.S. International Trade Commission (Commission), I am providing this response to the Government Accountability Office (GAO) draft report, *Inspectors General: Continued Actions Needed to Strengthen IG Oversight of the United States International Trade Commission*, report number GAO-11-5.

The Commission appreciates your thorough and comprehensive review of the activities of the Commission's Office of Inspector General (OIG) for fiscal years 2005 through 2009. It was never the Commission's intention to have a vacancy in the permanent Inspector General position for such a long period of time, and we regret that various events delayed the hiring of a permanent Inspector General. We recognize that the lack of an active and permanent Inspector General contributed to the issues identified in this report.

I am pleased to report that the Commission has instituted corrective actions and has implemented all of GAO's recommendations in your draft report. The Commission hired a permanent Inspector General in December 2009. Moreover, upon learning of the Inspector General's need for resources, the Commission increased the fiscal year 2010 budget and staffing levels for the OIG. Enclosed with this letter is a memorandum from the Commission's Inspector General providing a status update for Office of Inspector General activities related to staffing resources and budget requests in response to your report. I also enclose two memoranda of understanding between the Inspector General and the Commission, which address OIG access and custody of Commission records and OIG notification of possible criminal violations. Finally, I enclose the revised orientation information for Commissioners concerning the Office of Inspector General.

**Appendix III: Comments from the Chairman,
U.S. International Trade Commission**

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The Commission is dedicated to ensuring the proper level of Inspector General oversight. I look forward to working with the Inspector General to achieve enhanced performance and accountability throughout the Commission.

Thank you for reviewing the Commission's Inspector General office. If you need additional information, please contact me at (202) 708-5482.

Sincerely,



Deanna Tanner Okun

Enclosures

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Susan Ragland, (202) 512-9095 or raglands@gao.gov

Staff Acknowledgments

In addition to the contact named above, Jackson Hufnagle, Assistant Director; Clarence Whitt; Francis Dymond; Jacquelyn Hamilton; and Cynthia Jackson made key contributions to this report.

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