

**GAO**

Report to the Chairman, Committee on  
Ways and Means, House of  
Representatives

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March 2000

# INTERNATIONAL TRADE

## Strategy Needed to Better Monitor and Enforce Trade Agreements



**G A O**

Accountability \* Integrity \* Reliability

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**Abbreviations**

GDP	gross domestic product
NAFTA	North American Free Trade Agreement
USTR	U.S. Trade Representative
WTO	World Trade Organization



United States General Accounting Office  
Washington, D.C. 20548

National Security and  
International Affairs Division

B-284600

March 14, 2000

The Honorable Bill Archer  
Chairman, Committee on Ways and Means  
House of Representatives

Dear Mr. Chairman:

The United States has entered into over 400 trade-related agreements since the early 1980s, most of which were intended to liberalize trade and increase U.S. companies' access to foreign markets.<sup>1</sup> Over half of these agreements were signed between 1992 and 1998. Included among them are the far-reaching 1994 World Trade Organization agreements, which cover about \$1.4 trillion in annual U.S. trade with 135 countries, as well as significant bilateral agreements with key trading partners such as Japan and China. The Office of the U.S. Trade Representative and other federal agencies routinely monitor foreign compliance with trade agreements to maximize the benefits to the U.S. economy that such agreements were intended to provide. The Office of the U.S. Trade Representative also takes actions to enforce and defend U.S. trade agreement rights when necessary. Federal monitoring and enforcement efforts help inspire public confidence that trade agreements are beneficial to the United States.

Because of Congress' interest in determining whether U.S. agencies have the capacity to monitor and enforce trade agreements, you asked us to assess U.S. government efforts in this regard. As agreed with your office, this report (1) identifies the federal structure for monitoring and enforcing trade agreements; (2) describes the increasing complexity of the federal monitoring and enforcement task and key activities that federal agencies must perform; and (3) assesses whether the Office of the U.S. Trade Representative, the Department of Commerce, and the Department of Agriculture have the capacity to handle their monitoring and enforcement workload, that is, whether their human capital (staff) resources and support mechanisms enable them to perform needed monitoring and enforcement activities. To meet our objectives, we examined the monitoring and enforcement activities of nine offices at the Office of the

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<sup>1</sup>For further information on U.S. trade agreements, see *International Trade: Improvements Needed to Track and Archive Trade Agreements* (GAO/NSIAD-00-24, Dec. 14, 1999).

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U.S. Trade Representative, the Department of Commerce, and the Department of Agriculture. (App. V provides details about our scope and methodology.)

A broad range of activities underpins federal monitoring and enforcement efforts, and the distinction between monitoring activities and enforcement activities is not clearly defined. In this report, “monitoring” refers to federal activities that are undertaken to identify instances where foreign laws, regulations, and practices may be inconsistent with trade agreement provisions. When such problems are identified, agencies take a variety of actions to encourage and obtain foreign compliance with trade agreements. “Enforcement” refers to actions taken by the Office of the U.S. Trade Representative to compel foreign compliance with trade agreements, such as initiating dispute settlement procedures that certain trade agreements provide. The Office of the U.S. Trade Representative also defends the United States when other countries initiate dispute settlement procedures to assert that U.S. laws, regulations, and practices are inconsistent with trade agreement provisions.

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## Results in Brief

U.S. government efforts to monitor and enforce trade agreements involve at least 17 federal agencies, with the Office of the U.S. Trade Representative having primary statutory responsibility. The other agencies’ contributions to federal monitoring and enforcement efforts vary according to their legal requirements, mission, and expertise, but the Departments of Commerce, Agriculture, and State have substantial monitoring and enforcement roles. The Office of the U.S. Trade Representative and Commerce both created offices in 1996 specifically dedicated to trade agreement monitoring and enforcement. At least 13 other federal agencies provide policy input or technical expertise to U.S. monitoring and enforcement efforts. Several interagency mechanisms exist to coordinate the contributions and perspectives of the multiple agencies involved in monitoring and enforcement. Private sector input is obtained from statutory advisory councils, informal advisory groups, trade associations, and private companies.

The task of monitoring and enforcing foreign compliance with trade agreements has become more complex as the number of trade agreements and trade agreement partners has grown and the issues covered by trade agreements have expanded. In the past, trade agreements primarily helped to reduce the tariffs charged on merchandise imports. However, current trade agreements address more complicated types of import restrictions,

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such as product standards and food safety regulations, and cover a broader range of issues, such as trade-related investment measures or intellectual property rights. Federal agencies that monitor and enforce trade agreements must be able to perform several key activities; these include identifying and prioritizing compliance problems, analyzing information about them, and seeking ways to resolve them.

Although the Office of the U.S. Trade Representative and the Departments of Commerce and Agriculture have taken steps to improve their monitoring and enforcement efforts, certain capacity weaknesses limit their ability to handle the federal monitoring and enforcement workload. Officials at all three agencies told us that steadily declining staff levels in recent years have adversely impacted the agencies' monitoring and enforcement activities. Agency officials also told us that although the technical complexity of trade agreements has been increasing, the expertise needed to analyze compliance problems is not always available. For example, officials at the Office of the U.S. Trade Representative said that strong economic analysis and modeling are needed to develop dispute settlement cases before the World Trade Organization, but the agency has a limited number of staff with this kind of economic expertise. Despite these human capital constraints, interagency discussions were only recently held to identify additional resources needed for federal monitoring and enforcement activities. However, these discussions did not appear to address how agencies will manage the growing monitoring and enforcement workload, what skills are needed and available to perform this function, or whether federal efforts are targeted at the areas of greatest risk. Finally, although private sector information about trade agreement compliance problems is essential to federal monitoring and enforcement efforts, some agency offices that we examined had better mechanisms than others for obtaining comprehensive and balanced input from the private sector.

In this report, we recommend that the Office of the U.S. Trade Representative and the Departments of Commerce and Agriculture jointly develop a strategy to better manage the U.S. government's growing trade agreement monitoring and enforcement workload.

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## Background

Trade's influence on the U.S. economy has increased dramatically in the past decade. Exports of goods have grown faster than gross domestic product (GDP), particularly since 1992 when such exports grew about 1-1/2 times as fast as GDP (see fig. 1).

**Figure 1: U.S. Merchandise Export Growth as Compared to Gross Domestic Product Growth, 1970-98**



Note: Exports and GDP are presented as index numbers where their value in 1970 equals 100.

Source: GAO calculations based on *International Financial Statistics* (Washington, D.C.: International Monetary Fund, Nov. 1999).

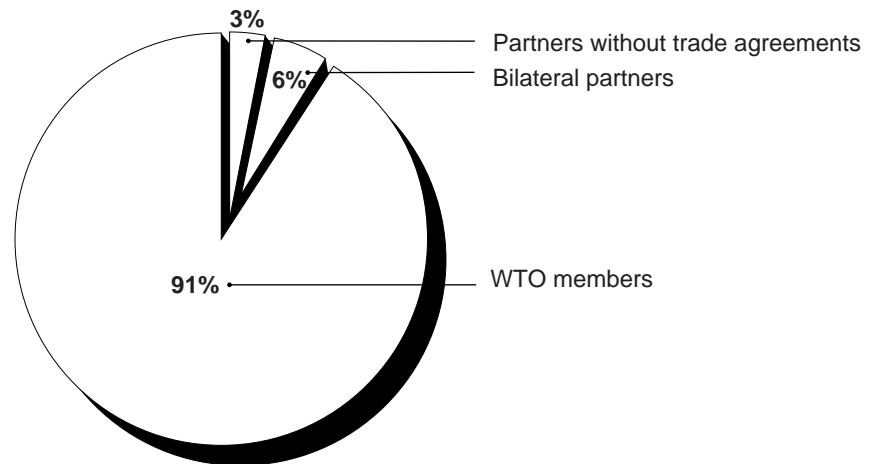
Most of this growing volume of U.S. exports is governed by the terms of trade agreements. For example, about 91 percent of U.S. merchandise exports in 1998 were to members of the World Trade Organization (WTO)<sup>2</sup> and were covered by the terms of multiple WTO agreements.<sup>3</sup> Another 6 percent of merchandise exports that year were to countries that are not WTO members but with whom the United States has bilateral (country-to-country) trade agreements that improve U.S. access abroad (see fig. 2).

<sup>2</sup>The WTO was established on January 1, 1995, as a result of the Uruguay Round of Multilateral Trade Negotiations of the General Agreement on Tariffs and Trade. The WTO facilitates the implementation, administration, and operation of multiple agreements that govern trade among its member countries. It also provides dispute settlement procedures to resolve disagreements among its members.

<sup>3</sup>About one-third of U.S. merchandise exports in 1998 were to Canada and Mexico and were covered by the WTO agreements as well as the North American Free Trade Agreement (NAFTA).



**Figure 2: Share of 1998 U.S. Merchandise Exports to Trade Agreement Partners**



Note: To avoid “double counting,” in this chart, U.S. exports to WTO members, whether covered by the WTO agreements or other bilateral (country-to-country) agreements, are combined under the heading “WTO members.” “Bilateral partners” are countries that are not WTO members but with whom the United States has bilateral trade agreements.

Sources: GAO analysis based on U.S. Department of Commerce trade statistics, U.S. Trade Representative data on trade agreements, and WTO membership data.

Key bilateral trade agreements, and multilateral agreements like the WTO’s, improve U.S. market access abroad by setting ground rules for the treatment of U.S. exporters and investors in foreign markets. While they vary in content and form, major trade agreements help ensure that U.S. exporters and investors will be treated the same as other foreign and domestic suppliers, establish the maximum tariff (tax) that will apply to U.S. exports, and provide for the gradual lowering or elimination of trade barriers.

According to recognized trade experts and responsible agency officials, the U.S. government’s monitoring and enforcement efforts are designed to attain certain broad goals—ensuring foreign compliance with trade agreements, providing credible deterrence, and inspiring confidence.

- *Ensuring compliance*—Vigorous efforts to monitor and enforce trade agreements are necessary to ensure that foreign partners fulfill their trade agreement obligations and that U.S. firms fully realize the improvements in market access these agreements offer.
- *Providing credible deterrence*—Federal monitoring and enforcement activities also provide a credible deterrent to future trade agreement

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violations and improve the likelihood of full implementation by other U.S. trading partners.

- *Inspiring confidence*—A reliable, well-functioning system for monitoring and enforcing trade agreements helps sustain congressional and public confidence in the administration's trade strategy and fosters their support for continued trade liberalization.

U.S. efforts to monitor and enforce trade agreements play a key role in the success of U.S. trade policy. These efforts help U.S. companies gain access to foreign markets and increase U.S. exports. In addition, through challenging and defending trade policies under the WTO dispute settlement process, the United States establishes legal precedents that help create a fair, predictable, rules-based trading system that is beneficial for U.S. companies and industries.

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## Multiple Agencies Participate in Federal Monitoring and Enforcement Efforts and Rely on Private Sector Input

The Office of the U.S. Trade Representative (USTR) has primary statutory responsibility for monitoring and enforcing U.S. trade agreements and works with at least 16 other federal agencies and the private sector in carrying out this responsibility. Among these agencies, Commerce, Agriculture, and State make substantial contributions to federal monitoring and enforcement efforts, both by performing their own monitoring activities and supporting USTR's efforts. Because of trade agreements' expanding scope and technical complexity, the policy and technical input of regulatory or scientific agencies has become increasingly important. A statutory interagency structure exists to coordinate the development of trade policy, including monitoring and enforcement activities, across multiple agencies. Federal agencies also receive essential private sector input from multiple federal advisory councils, informal advisory groups, trade associations, and private companies.

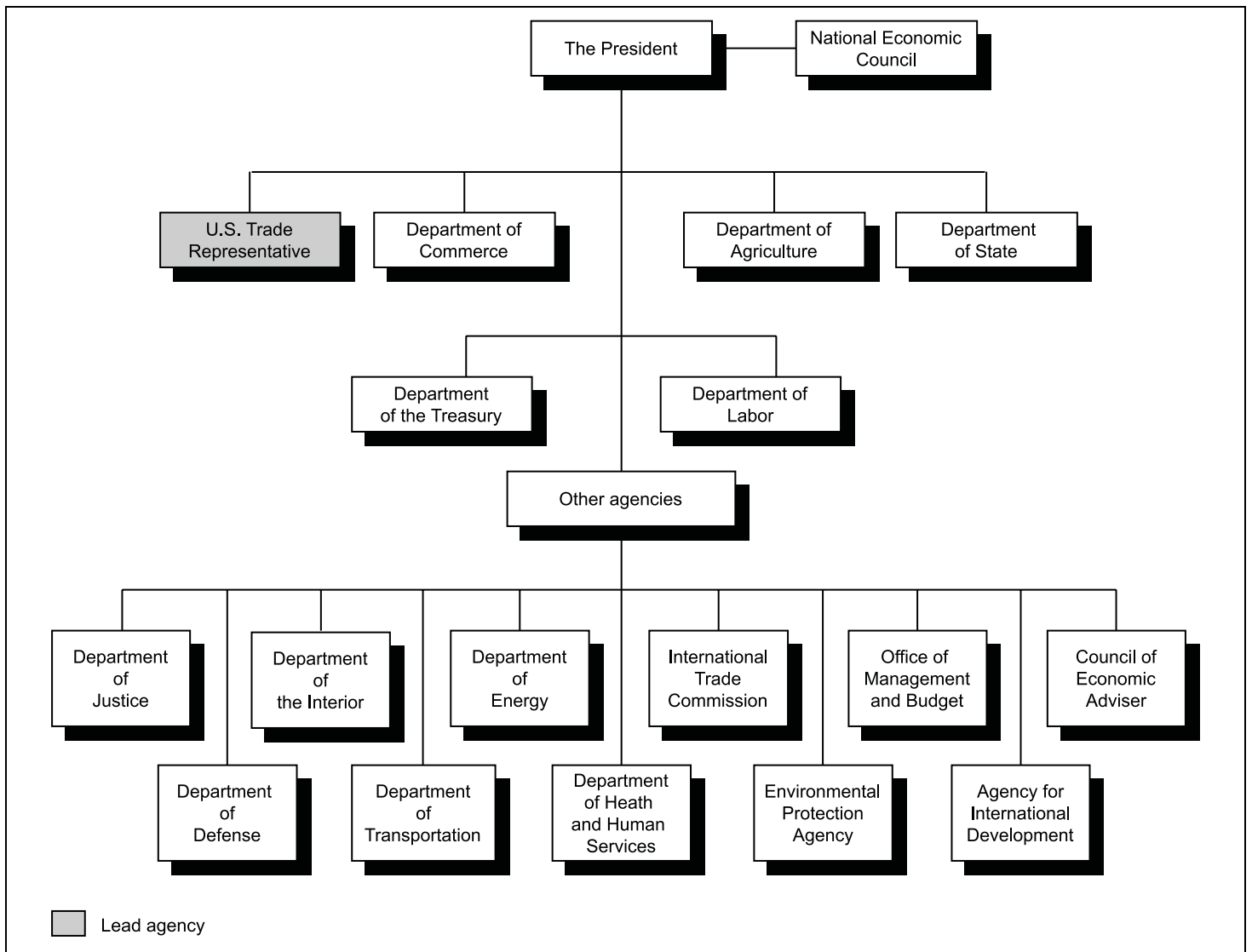
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## USTR Has Primary Responsibility for Federal Monitoring and Enforcement Efforts

The vast majority of statutory trade agreement monitoring and enforcement responsibility rests with USTR. Commerce and Agriculture also have certain statutory monitoring responsibilities for trade agreements. State has an important role in monitoring and enforcing trade agreements because of its foreign policy expertise. Congress has generally not mandated in law the role of other executive branch agencies in monitoring or enforcing trade agreements. Thus, based upon their general legislative authorities, agencies have exercised their discretion in structuring their operations to assist USTR in monitoring and enforcing

trade agreements. The agencies that participate in federal trade agreement monitoring and enforcement efforts are shown in figure 3.

**Figure 3: Agencies That Participate in Federal Trade Agreement Monitoring and Enforcement Efforts**



Source: GAO analysis.

USTR is responsible for developing and coordinating U.S. international trade and foreign direct investment policy and for leading or directing negotiations with other countries on such matters. With respect to

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monitoring and enforcing trade agreements, USTR is required by law to identify any foreign policies and practices that constitute significant barriers to U.S. exports of goods and services, particularly those that are covered by international agreements to which the United States is a party.<sup>4</sup> It is the sole federal agency authorized to initiate actions to enforce U.S. rights under bilateral and multilateral trade agreements, at its own discretion or as petitioned by private enterprises or individuals.<sup>5</sup> USTR receives support from other agencies in its enforcement efforts. In 1996, USTR established a Monitoring and Enforcement Unit within its Office of General Counsel to help coordinate USTR's trade agreement monitoring and enforcement obligations.

Among the other most active agencies, Commerce has general operational responsibility for the major nonagricultural trade functions of the U.S. government. It shares statutory responsibility with USTR for monitoring other countries' compliance with WTO rules on subsidies, but its overall monitoring role is broader.<sup>6</sup> In 1996, Commerce created a Trade Compliance Center within its International Trade Administration to help ensure that U.S. trade agreements are monitored and compliance issues are promptly addressed. Agriculture is statutorily responsible for implementing, monitoring, and reporting to USTR on any noncompliance with the agricultural provisions of the World Trade Organization and the North American Free Trade Agreement.<sup>7</sup> The Foreign Agricultural Service handles most of these responsibilities on Agriculture's behalf and monitors many bilateral trade agreements as well. State advises USTR on the foreign policy implications of any trade-related actions and participates in trade negotiations that have a direct and significant impact on foreign policy.

At least 13 other federal agencies are also involved in federal monitoring and enforcement efforts, as shown in figure 3. They primarily provide technical or policy input that is derived from their particular agency mission or areas of expertise. For example, the Treasury advises USTR on the financial services aspects of trade agreements, while Labor reviews trade agreements that involve labor and workers' rights issues.

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<sup>4</sup>19 U.S.C. 2241 (a)(1)(A)(i).

<sup>5</sup>19 U.S.C. 2412.

<sup>6</sup>19 U.S.C. 3571.

<sup>7</sup>7 U.S.C. 5606, 7 U.S.C. 5674, 19 U.S.C. 3381, and 19 U.S.C. 3391.

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## Federal Monitoring and Enforcement Efforts Are Coordinated Through Several Interagency Mechanisms

Although no interagency mechanism exists specifically to coordinate federal monitoring and enforcement efforts, these issues are addressed within several interagency mechanisms that coordinate the formulation and implementation of trade policy. The highest-level interagency coordination mechanism is the National Economic Council, a cabinet-level organization established in 1993 that includes the heads of multiple federal agencies.<sup>8</sup> The National Economic Council was created in part to coordinate domestic and international economic policy formulation. One of its responsibilities is to review significant trade policy issues and help ensure overall trade policy coordination.

In addition, Congress created an interagency structure in the Trade Expansion Act of 1962, as amended by the Trade Act of 1974, to help ensure that the development of trade policy reflects a range of agency perspectives and is coordinated throughout the government. This structure includes several management- and staff-level committees that are chaired by USTR. Trade policy decisions, including those related to trade agreement monitoring and enforcement, are generally developed via consensus within these interagency structures. Interagency conflicts that arise are addressed at progressively higher levels including, when necessary, within the National Economic Council.

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<sup>8</sup>Members of the National Economic Council include the President; the Vice President; the Secretaries of State, the Treasury, Agriculture, Commerce, Labor, Housing and Urban Development, Transportation, and Energy; the Administrator of the Environmental Protection Agency; the Chair of the Council of Economic Advisors; the Director of the Office of Management and Budget; the U.S. Trade Representative; the Assistants to the President for Economic Policy, Domestic Policy, and Science and Technology Policy; the National Security Advisor; and other officials of executive departments and agencies as the President may, from time to time, designate.

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## Private Sector Plays a Key Role in Monitoring and Enforcing Trade Agreements

The private sector plays an essential role in federal efforts to monitor and enforce trade agreements by providing agencies with information about trade agreement compliance problems and supporting federal actions to address such problems. In the 1974 Trade Act, Congress created a private sector advisory committee system to ensure that U.S. trade policy and negotiation objectives reflect U.S. commercial and economic interests. Within this system, a wide variety of advisory committees exist that, among other things, report on trade agreements that the United States has negotiated and enhance communication and information-sharing between federal agencies and the private sector related to federal monitoring and enforcement efforts.<sup>9</sup> Private sector input is also obtained through mechanisms created by the private sector or agencies themselves and through direct contact with individual companies or exporters.

Appendix I contains more information about the federal structure for monitoring and enforcing trade agreements, the interagency structure for coordinating trade policy, the congressional structure for overseeing these agencies and activities, and the statutory industry advisory groups.

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## Monitoring and Enforcing Trade Agreements Are Increasingly Complex Tasks

Increases in the number of trade agreements, the number of trade agreement partners, and the complexity of topics covered by trade agreements have made the task of monitoring and enforcing such agreements more challenging for federal agencies in recent years. In the past, trade agreements focused primarily on reducing tariff levels for merchandise trade. Now they address a broader range of trade barriers, such as product standards and food safety measures. They also address many new subjects, such as trade in services and trade measures related to the protection of intellectual property rights, and provide more specific guidance for traditional trade areas, such as trade in agricultural products. The size and complexity of the monitoring and enforcement workload are expected to continue growing. In order to meet this challenge and achieve their monitoring and enforcement goals, federal officials said they must perform certain key activities, such as identifying compliance problems and developing responses to address them.

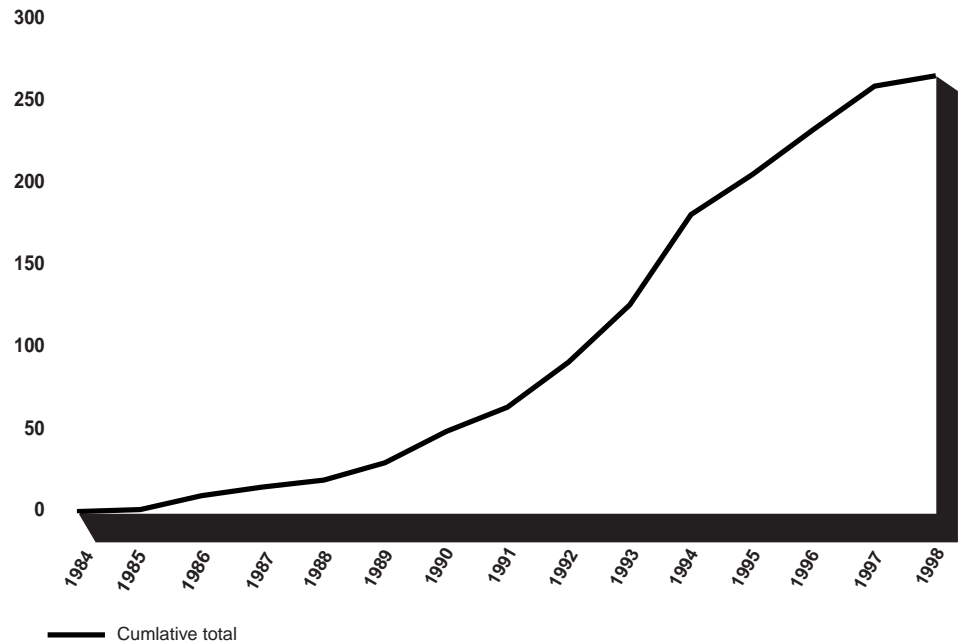
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<sup>9</sup>Advisory committees are to report after the conclusion of trade agreement negotiations on, among other things, the extent to which a trade agreement promotes the economic interests of the United States and meets applicable U.S. negotiating objectives. 19 U.S.C. 2155 (e) and 19 U.S.C. 2902 (4).

## Number, Scope, and Complexity of Trade Agreements Have Expanded

USTR negotiates most trade agreements on behalf of the United States. According to USTR, it has negotiated about 250 enforceable trade agreements since 1984, the majority of which increase access for U.S. exports to markets overseas.<sup>10</sup> Two-thirds entered into force after 1992 (see fig. 4).

Figure 4: Cumulative Number of USTR-negotiated Trade Agreements, 1984-98



Source: USTR 1999 Trade Policy Agenda and 1998 Annual Report.

<sup>10</sup>The actual number of trade agreements currently in force is unknown, although we found over 400 agreements that entered into force since 1984. In addition, multiple agencies negotiate trade agreements on behalf of the United States. For an explanation of the difficulty in identifying and archiving trade agreements, see *International Trade: Improvements Needed to Track and Archive Trade Agreements*.

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Among the agreements USTR has negotiated, several multilateral ones have fundamentally changed the nature of trade agreements:

- The Uruguay Round of Multilateral Trade Negotiations (1986-94), conducted under the auspices of the General Agreement on Tariffs and Trade, led to the creation of the World Trade Organization and its binding dispute settlement mechanism; added WTO agreements on intellectual property rights, services, agriculture, and textiles to the global trade system for the first time; and established rules on a host of nontariff barriers to trade, such as product standards. These agreements, which entered into force in 1995, currently apply to 135 nations.
- Three additional WTO agreements entered into force after 1995 that cover trade in financial services, basic telecommunications, and information technology.
- NAFTA entered into force in 1994 and provided for the elimination of tariffs and other barriers to goods, services, and investment between the United States and its two largest trading partners, Canada and Mexico.

Several of these agreements involve very technical subjects, and responding to potential violations of these agreements is complex. For example, one WTO agreement addresses the impact on agricultural trade of members' laws and regulations that are designed to protect human, animal, and plant life and health.<sup>11</sup> Responding to potential violations of this agreement may require cognizant agencies to demonstrate whether meat products can transmit animal diseases to animals or humans or to provide data on how much pesticide can be applied to a crop before residues exceed an importing country's limits. If available scientific research is incomplete or in conflict, it can be difficult to convince other countries to dismantle certain types of trade barriers.

Meanwhile, membership in several key trade agreements has grown, expanding the federal monitoring and enforcement workload. For example, when the Uruguay Round was launched in 1986, 90 countries were members of the General Agreement on Tariffs and Trade, the organizational structure that preceded the World Trade Organization. When the WTO agreements were signed in 1994, the number of WTO members had expanded to 123, and 12 additional countries have joined the WTO since

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<sup>11</sup>WTO Agreement on the Application of Sanitary and Phytosanitary Measures.



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then. Similarly, 19 countries have joined the WTO Information Technology Agreement since it was concluded in 1996.

Finally, while these far-reaching agreements have substantially increased U.S. trade agreement rights, they have also increased U.S. trade agreement obligations to other nations. As a result, the defense of U.S. laws and practices is a growing focus of federal monitoring and enforcement efforts. This has affected USTR's workload, in particular, because it is responsible for advocating and defending U.S. trade agreement rights and obligations within the WTO. As of November 1999, the United States had filed 49 complaints against other countries under WTO dispute settlement procedures, and 35 complaints had been filed against the United States by other countries.

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### Further Increases in Monitoring and Enforcement Workload Are Expected

The U.S. government's monitoring and enforcement workload is expected to continue growing, for the following reasons:

- Several important WTO agreements that gave developing countries a longer period of time than developed countries to come into compliance with the agreements' provisions are now in effect. For example, while key provisions of the WTO agreements on intellectual property rights, trade-related investment measures, customs valuation, and subsidies took effect for most developing countries on January 1, 2000, they had taken effect for developed countries with the advent of the WTO on January 1, 1995.<sup>12</sup>
- WTO membership is likely to increase. Thirty one more countries are seeking to join the WTO, including China, the U.S.' 12th largest export market in 1998.
- WTO members are already committed to negotiate further liberalization in the agriculture and services sectors beginning in early 2000, and a new round of broader WTO negotiations may be launched.

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### Key Steps in Monitoring and Enforcing Trade Agreements

Officials at the agencies we examined—USTR, Commerce, and Agriculture—described several key steps that they perform in monitoring and enforcing trade agreements. These steps include identifying compliance problems, setting priorities, gathering and analyzing

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<sup>12</sup>The Agreement on Trade-Related Aspects of Intellectual Property Rights became obligatory for developed countries one year later, on January 1, 1996.

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information, developing and implementing responses, and taking actions to enforce agreements. (App. II contains more information about key federal monitoring and enforcement activities.)

Because the number and scope of trade agreements are so broad, agency officials indicated that their primary purpose in monitoring trade agreements is to identify important trade agreement compliance problems rather than monitor compliance with all aspects of all trade agreements. Several trade experts and private sector representatives that we spoke with said this was a sensible approach, since federal monitoring resources are limited. Officials in the offices we examined described their efforts to identify compliance problems as both reactive and proactive. For example, they said that such problems are frequently identified by the private sector, but staff in several offices indicated they are trying to identify more compliance problems on their own by routinely reviewing compliance with certain trade agreements and initiating contact with private sector representatives. Agency officials indicated that some agreements are routinely monitored, such as those with built-in monitoring mechanisms, while others receive little or no monitoring, particularly if private sector interest in the agreement is lacking. This more targeted approach still produces a substantial workload, requiring agencies to continually prioritize their monitoring and enforcement efforts and balance them with their other trade responsibilities. The offices we examined apply certain common criteria in setting their priorities and determining which compliance problems to focus on, including the amount of U.S. trade involved, the trade principles at stake, and any reporting or other deadlines they faced.

Agencies gather and analyze a wide range of information about compliance problems, including foreign trade agreement commitments, foreign market data, and scientific research or technical data. They attempt to resolve compliance problems through various methods and levels of communication with foreign governments, ranging from phone calls to visits by high-level U.S. officials. Their objective is to resolve problems quickly and at the lowest government level possible. However, when foreign governments are not responsive to U.S. efforts, USTR may seek to enforce U.S. trade agreement rights through available mechanisms, such as the WTO dispute settlement process.

In addition to these key activities, several federal agencies, including USTR and Commerce, are required to report to Congress each year on various trade and economic issues. Some of these reports focus on the

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implementation and results of specific trade agreements, while others are more broad. For example, USTR prepares multiple reports on other countries' trade practices. (App. III contains more information on the trade-related reporting requirements for USTR and other agencies.)

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## Despite Improvements, Capacity Weaknesses Hinder Federal Monitoring and Enforcement Efforts

USTR, Commerce, and Agriculture have taken various steps to improve their ability to monitor and enforce trade agreements. For example, Commerce and Agriculture have implemented measures to improve their ability to identify compliance problems and to enhance coordination within their departments, while USTR has improved its capacity to enforce U.S. trade agreement rights. However, other capacity weaknesses have negatively affected these agencies' monitoring and enforcement efforts. First, officials at all three agencies said that steady declines in staff resources have limited the agencies' monitoring and enforcement activities and the level of support they provide each other. Second, agency officials said that gaps in staff expertise have hindered their efforts to analyze and respond to compliance problems. Third, the agencies have only recently worked together to determine what resources the U.S. government needs to monitor and enforce its trade agreements, but they have not addressed whether the skills needed are currently available or whether federal efforts are targeted at the areas of greatest risk. Finally, we observed that the three agencies' ability to obtain comprehensive and balanced input from the private sector is uneven.

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## Key Federal Agencies Have Taken Steps to Enhance Monitoring, Coordination, and Enforcement Capacities

USTR, Commerce, and Agriculture have made several changes to improve their capacity to perform key monitoring and enforcement activities. First, we found that the nine USTR, Commerce, and Agriculture offices we examined had good capacity to identify potential trade agreement compliance problems (app. V identifies the nine offices we studied). Commerce and Agriculture had both taken steps to further improve their performance in this area. For example, Commerce's Trade Compliance Center had developed an internet web site where users, particularly small- and medium-sized companies, can enter information about problems concerning trade agreement implementation or market access.<sup>13</sup> It also had established "compliance liaisons" at over 70 trade and labor associations to

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<sup>13</sup>We reported on Commerce's internet web site in *International Trade: Improvements Needed to Track and Archive Trade Agreements*. The web site can be found on the internet at <http://www.mac.doc.gov/tcc>.

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create a reporting channel for compliance problems, according to Commerce officials. In addition, Commerce and Agriculture had developed instructions for their staff posted overseas to emphasize the role that these staff play in identifying and reporting to their headquarters on compliance problems. Through their reliance on multiple sources of information and reporting mechanisms, staff in the offices we examined believed that they were able to identify most of the important compliance issues affecting U.S. interests.

Second, USTR, Commerce, and Agriculture have also taken steps to improve the coordination of agency efforts to monitor and enforce trade agreements. For example, in 1995, the Foreign Agricultural Service established weekly meetings to coordinate the efforts of multiple Agriculture agencies to address compliance problems under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, which addresses the impact of countries' health and food safety measures on agricultural trade. In 1998, USTR created a steering committee that included representatives of multiple trade and regulatory agencies to better coordinate U.S. efforts to monitor and enforce this agreement.<sup>14</sup> Finally, in 1998, Commerce's Trade Compliance Center established a system to designate which staff from multiple Commerce offices were responsible for monitoring various trade agreements. The Center also held biweekly meetings of managers from various Commerce offices to share information on identified compliance problems and department efforts to address them.

Third, USTR took steps to enhance its ability to enforce trade agreements. USTR officials said that the workload associated with enforcing U.S. trade rights through the WTO dispute settlement system has increased dramatically. For example, the United States was involved in 22 new WTO dispute settlement cases in 1996, which was 7 times as many cases as it had handled in the previous 5 years. USTR determined that its existing legal resources were insufficient to handle this increased workload and, in fiscal year 1998, added seven lawyers and two legal technicians to its Monitoring and Enforcement Unit. Several USTR officials said these additional staff enhanced U.S. enforcement efforts.

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<sup>14</sup>We reported on U.S. efforts to address other countries' health and food safety measures that restrict U.S. exports in *Agricultural Exports: U.S. Needs a More Integrated Approach to Address Sanitary/Phytosanitary Issues* (GAO/NSIAD-98-32, Dec. 11, 1997).

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## Insufficient Numbers of Staff Have Hindered Key Agencies' Monitoring and Enforcement Efforts

Despite having taken steps to improve their ability to identify trade agreement compliance problems, coordinate with each other, and enforce U.S. trade agreement rights, officials in the USTR, Commerce, and Agriculture offices we examined frequently identified insufficient staff resources—either in their own office or agency or in other agencies—as a hindrance to their monitoring and enforcement efforts. Managers in all of the offices we examined said that human capital is the most important resource they have for monitoring and enforcing trade agreements.<sup>15</sup> However, USTR, Commerce, and Agriculture have faced flat or declining budgets and staff numbers in the past 5 years at the same time that the federal trade agreement monitoring and enforcement workload has been growing. For example, the number of USTR staff dropped from 168 in fiscal year 1994 to 159 in fiscal year 1996 but rose back to 169 in fiscal year 1999. Although USTR requested and sometimes received authorization to increase its staff level during this time, in some years its appropriated funds did not allow it to meet authorized staff levels.

At all three agencies, officials in some offices said that their staff levels have adversely affected their ability to monitor and enforce trade agreements. In an environment of flat or declining resources, agency decisions to create new monitoring and enforcement offices precluded the agencies from adequately staffing other offices that also had important monitoring responsibilities. (App. IV provides data on staff levels at USTR, Commerce, and Agriculture.)

USTR, Commerce, and Agriculture officials identified several situations in which insufficient staff numbers had adversely affected their monitoring and enforcement efforts.

- Officials in USTR's Office of WTO and Multilateral Affairs told us that their individual workload is so great that they are routinely unable to perform certain parts of their monitoring job. One official in this office said he often does not have enough time to provide monitoring guidance to posts overseas or return phone calls. Another official in this office said he does not have enough time to read all of the reports that WTO member countries submit to the WTO on their compliance with the agreement he monitors.

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<sup>15</sup>“Human capital” refers to an agency's workforce, including its technical and program skills and institutional memory.

- Commerce officials identified several trade issues that it could not address because it did not have enough staff with the right expertise to handle the issues. These included European barriers affecting U.S. providers of gas and electricity components and weather service products, various Southeast Asian standards and testing and certification procedures, and Japanese barriers on recreational boat and engine products. Commerce reported that U.S. exports could grow by hundreds of millions of dollars if these issues were resolved.
- Agriculture officials told us that the Foreign Agricultural Service receives an increasing number of requests from its overseas posts for training visits by headquarters staff with knowledge about the use of biotechnology in agricultural products. Although the United States faces a growing number of biotechnology-related trade problems, these requests are routinely denied because of staff and budget constraints.

Many agency and private sector officials we spoke with believed that USTR, in particular, had insufficient staff resources to handle its growing monitoring and enforcement workload. For example, one private sector official noted that USTR has one person handling customs issues compared to five full-time staff working on this issue for the European Union. Despite increased resource levels in USTR's Monitoring and Enforcement Unit, some private sector officials stated their belief that USTR staff levels limit the number of dispute settlement cases that USTR can handle at any given time and have prevented it from initiating certain dispute settlement cases that private sector officials thought should go forward.

USTR and Agriculture officials also stated that insufficient staff at other agencies limits the extent to which other agencies have supported their monitoring and enforcement efforts. Several USTR officials said that the overall amount and quality of trade policy support and participation in interagency trade policy committees by other agencies has diminished, in part because of limited or declining agency resources and turnover. As a result, these officials said that USTR has had to take on more operational tasks and does not always have the breadth of perspectives or information it needs to respond to compliance problems.

- Several USTR officials observed that declining resources have reduced the overall level of support they get from Commerce, which is the agency that has provided USTR with the most assistance in the past. These officials said that Commerce used to provide USTR with more foreign market data and industry information, perform more analysis of

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compliance problems, and do more preparatory work for meetings with foreign officials.

- An official in USTR's Office of WTO and Multilateral Affairs who monitors three different WTO agreements that came into force in 1995 told us he has gotten very little support from Commerce to address compliance problems under two of these agreements.
- Officials in USTR's Office of Japan told us that USTR, Commerce, State, and the Treasury divided responsibilities for monitoring 31 U.S.-Japan trade agreements among the four agencies, but these agencies often have not been able to support USTR's efforts to monitor the agreements as they did in the past.
- Several Foreign Agricultural Service officials said the agency faces ongoing challenges in getting the technical support it needs from regulatory agencies inside and outside of the Agriculture Department to address certain types of compliance problems, in part because the regulatory agencies do not have resources available for the task.

According to agency officials, budget constraints at USTR, Commerce, and Agriculture have not only affected staff levels but have also limited the funds available for necessary travel and training expenses. In addition, the demand and cost for translation services have been rising. These constraints have impacted the agencies' monitoring and enforcement efforts.

- To manage the effect of flat budgets in fiscal years 1999-2000, the Foreign Agricultural Service imposed a 40-percent cut in training and travel funds. The Director of the Foreign Agricultural Service's Europe, Africa, and Middle East Division said that because of reduced travel funds, he can only send one staff person at a time to the European Union to negotiate the resolution of multiple compliance issues. This one U.S. official, whose expertise is typically focused in a certain area, faces several experienced European Union officials, a situation that, agency and private sector officials observed, makes it difficult for the United States to obtain favorable resolutions to compliance problems.
- Similarly, officials in Commerce's International Trade Administration Office of Latin America and the Caribbean said the office has had insufficient travel funds for several years to send its staff to the Latin American countries it covers. This situation has affected the office's ability to make the kind of contacts in the foreign governments and the private sector that would facilitate the resolution of compliance issues. Private sector officials told us that constraints on the office's travel

limited its ability to address intellectual property rights problems in this region.

- Because of high staff turnover rates, agency officials said educating new staff about how to do their job is very important, but certain agencies lack sufficient training funds. Some agency officials also said that staff do not have access to the kind of computer tools they need. For example, the Foreign Agricultural Service's Multilateral Trade Negotiations Division, which submits and reviews multiple WTO reports throughout the year, lacks appropriate software for communicating with the WTO, slowing U.S. response times.

### Limited Availability of Staff Expertise Impedes Federal Agencies' Ability to Analyze and Respond to Compliance Problems

The growing complexity of trade agreements has made it increasingly important for federal agencies to have certain types of staff expertise to properly analyze and implement responses to compliance problems. USTR, Commerce, and Agriculture officials in the offices we examined told us that addressing such problems requires federal agencies to have access to country, industry, and functional expertise and to perform a mixture of economic, technical, and legal analysis. However, because most of these offices did not have the capability to do all types of analysis themselves, they required input from other offices and agencies. Based on the types of problems these officials identified, we found that the three agencies' ability to do legal analysis of compliance problems is strong, but their ability to perform needed economic and technical analysis is not always assured. Officials in the offices we examined often stated that they had difficulty obtaining needed analytical support from other offices within their own agency or in other agencies.

- Officials in USTR's Monitoring and Enforcement Unit and Office of Economic Affairs told us that economic analysis is increasingly important, particularly for developing arguments in WTO dispute settlement cases, but USTR has limited capacity to perform such analysis. The Office of Economic Affairs only has two economists on staff and limited capacity to draw on resources elsewhere but has been heavily involved in several major WTO cases. These two staff worked for 8 months on the U.S. complaints about European Union measures affecting beef and banana imports that were simultaneously being reviewed by the WTO. During this time, the office had to turn down multiple requests from other USTR offices for economic assistance.
- USTR officials told us that they held discussions several times with officials from Commerce's Trade Compliance Center to emphasize their need for assistance with economic analysis. However, the Deputy



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Assistant Secretary that oversees the Trade Compliance Center told us that while he understood USTR's needs, Commerce does not have enough staff with the right expertise to be able to provide this assistance.

- In 1997, the United States negotiated several mutual recognition agreements with the European Union, making it easier for exporting companies to comply with testing and certification requirements. U.S. industry estimates the agreements will reduce market entry costs by \$500 million per year, but Commerce is unable to ensure implementation of these complex agreements because it does not have enough staff with the appropriate technical expertise to examine the issue.

Several agency officials told us they sometimes rely on the private sector for expertise and analysis to address compliance problems. However, this situation raises several concerns. First, during our recent study of U.S. government efforts to monitor and enforce bilateral agreements with Japan concerning insurance, USTR officials told us that neither USTR nor the U.S. government possessed the technical capabilities to independently verify private sector information and analysis about Japan's compliance with certain aspects of the agreements.<sup>16</sup> Second, several private sector officials told us they need to provide agencies with this kind of assistance to ensure their issues receive agencies' attention. However, not all private sector groups have these capabilities.

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## Overall Strategic Planning for Federal Monitoring and Enforcement Efforts Is Insufficient

Despite the resource constraints they face and their dependence on each other for support, USTR, Commerce, and Agriculture have not engaged in integrated, comprehensive strategic planning for overall federal efforts. The Government Performance and Results Act of 1993 (Results Act)<sup>17</sup> requires federal agencies to engage in a results-oriented strategic planning process. Executive branch implementing guidance for the Results Act requires that when multiple agencies are responsible for federal programs contributing to the same or similar outcomes, agency planning should be closely coordinated to ensure that goals are consistent and that program efforts are mutually reinforcing. Sound management principles suggest that

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<sup>16</sup>*International Trade: Implementation and Monitoring of the U.S.-Japan Insurance Agreements* (GAO/NSIAD-99-209, Sept. 24, 1999).

<sup>17</sup>P.L. 103-62 (Aug. 3, 1993).

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high-performance organizations should employ risk-management techniques to target their efforts toward areas most at risk.

As the Results Act requires, USTR, Commerce, and Agriculture each developed 5-year strategic plans for fiscal years 1997-2002, and annual performance plans. The agencies' strategic plans all contain goals related to trade agreement monitoring and enforcement, and USTR and Agriculture indicated in their strategic or annual plans that their ability to monitor and enforce trade agreements would depend, in part, on the level of support they receive from other agencies. However, the agencies continue to face problems in obtaining this support. Although USTR is the lead trade agency and was intended to coordinate federal trade efforts, the multiple agencies responsible for monitoring and helping USTR enforce trade agreements typically estimate their resource and budget needs independently, and USTR has no input into other agencies' budget requests, according to USTR officials. Moreover, even though all three agencies face growing monitoring and enforcement workloads and declining resources, some agency officials told us that until very recently no high-level discussions had occurred to discuss the full scope of the federal monitoring and enforcement workload and how responsible agencies will manage it.

USTR, Commerce, and Agriculture officials cited some examples of coordinated planning for monitoring and enforcement, however. For example, officials from USTR's Monitoring and Enforcement Unit and Commerce's Trade Compliance Center developed a joint memo to the National Economic Council in 1997 to define the roles each would play in monitoring and enforcing trade agreements, and Commerce reports that its staff routinely discuss compliance problems and resolution strategies with their USTR counterparts. Also, Foreign Agricultural Service officials said that their monitoring and enforcement efforts are closely integrated with USTR, in part because more than half of the staff in USTR's Office of Agricultural Affairs are on detail from various Agriculture agencies.

On February 7, 2000, shortly after our audit work was completed, the President submitted his budget proposal for fiscal year 2001. The budget proposal requested \$22 million to fund an interagency trade compliance initiative and bolster monitoring and enforcement resources at USTR, Commerce, Agriculture, and State. While the funds have not been approved yet by Congress, the initiative appears to be a first step in moving toward more coordinated planning of federal monitoring and enforcement efforts. However, interagency discussions on this initiative did not appear to include a thorough assessment of what skills are needed and available to

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monitor and enforce trade agreements or whether current efforts are targeted at the areas of greatest risk.

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### Agencies' Ability to Obtain Private Sector Input Is Uneven

The offices we examined identified several challenges in working with the private sector, including balancing divergent private sector interests and agreeing upon the nature and timing of U.S. actions to address compliance problems. Some offices that we examined were better able than others to obtain comprehensive private sector input and unified private sector positions. For example, officials in the Foreign Agricultural Service's Dairy, Livestock, and Poultry Division said they work closely with the Meat Industry Trade Policy Council, an industry-created coalition of trade associations that tries to work out differences among its members before presenting industry positions to the U.S. government. Private sector groups with an interest in intellectual property rights have formed a similar coalition.

However, other offices faced more difficulty in determining overall industry positions. Officials in Commerce's Office of Automotive Affairs said that positions in the automotive industry often vary between companies. Also, the office often has to make multiple contacts within a company because perspectives vary among headquarters, foreign subsidiaries, and Washington representative offices. Other offices, such as USTR's Office of Japan and Commerce's Office of Latin America and the Caribbean, had more difficulty obtaining private sector input. In some cases, this was because the trade agreements they monitored affected a broad range of private sector interests. In other cases, the offices had to contact individual companies to obtain private sector input because the issues were not adequately covered by existing trade associations or advisory councils. Several agency officials said that obtaining objective and balanced input and determining the overall U.S. national interest are especially difficult in situations where the private sector is divided over a compliance problem or when a problem affects only one or two companies.

The offices we examined identified other challenges they faced in getting private sector input. For example, lack of consensus within the private sector or between the private sector and the government can stall U.S. efforts to move forward. This consensus is affected when the private sector wants to move more quickly or slowly than the government, when companies or industries have divided interests, when companies want to protect their business data or fear foreign retribution to U.S. actions, and when they want the government to do something it cannot do. Officials said

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that decisions about the U.S. responses to compliance problems in these cases may be made at higher levels within federal agencies or the U.S. government.

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## Conclusions

The creation of the World Trade Organization and its vast array of trade agreements has caused dramatic increases to the trade agreement monitoring and enforcement workloads at USTR, Commerce, and Agriculture. However, these agencies' ability to monitor and enforce U.S. trade agreements is limited because they sometimes lack sufficient numbers of experienced staff with the right expertise; they do not always get needed analytical or other types of support from other agencies; and they sometimes have difficulty obtaining balanced, comprehensive input from the private sector. Moreover, even though these agencies each face similar challenges, they have not engaged in sustained discussions to identify the full scope of the federal monitoring and enforcement workload, the number and types of resources needed across the federal government to perform it, the availability of these resources within the government, the roles of individual agencies, and the resources each agency will devote to the task. Because of these weaknesses, USTR, Commerce, and Agriculture are unable to effectively assess, analyze, and respond to all of the trade agreement compliance problems that they or the private sector identify. These deficiencies prevent the U.S. government from maximizing the intended benefits of its trade agreements and thoroughly achieving its monitoring and enforcement goals.

Based on our work, we believe that a thorough examination of the current and future trade agreement monitoring and enforcement workload is necessary. Such an assessment could help identify areas in which capacity is currently lacking, as well as areas in which capacity needs to be developed to handle future increases in the federal monitoring and enforcement workload. Current monitoring and enforcement tasks may not be allocated in a way that best uses the agencies' relative strengths and capacities. In light of the recent trade compliance budget initiative, these steps are particularly important to ensure that any additional funds are properly allocated. Also, given the importance of timely and active private sector support for U.S. monitoring and enforcement efforts, the mechanisms for obtaining private sector input may not ensure that federal agencies obtain complete and balanced information on trade agreement compliance problems.

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## Recommendation

In order to improve U.S. capacity to monitor and enforce trade agreements, we recommend that the U.S. Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with other relevant agencies, develop a strategy for how the U.S. government will manage its growing trade agreement monitoring and enforcement workload. This strategy should (1) assess the human capital skills needed and available to monitor and enforce U.S. trade agreements now and in the future and determine how any gaps can be addressed, (2) consider whether the current workload is targeted toward the highest risks and properly allocated among key agencies, and (3) assess whether the mechanisms for obtaining private sector input provide full and balanced coverage of existing and future trade issues.

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## Agency Comments and Our Evaluation

We received written comments on a draft of this report from the U.S. Trade Representative and the Departments of Commerce and Agriculture (see apps. VI to VIII). The agencies also provided technical comments, which we incorporated in the report as appropriate.

The U.S. Trade Representative agreed with our assessment that, to improve U.S. capacity to monitor and enforce trade agreements, the executive branch must employ a more integrated approach rather than have each agency independently address its capacity in this area. It stated that the administration had followed such an approach in preparing its budget for fiscal year 2001, which included an additional \$22 million for trade agreement monitoring and compliance. The U.S. Trade Representative also stated its belief that our report did not adequately recognize the extent to which the U.S. Trade Representative had engaged in joint strategic planning related to trade agreement monitoring and enforcement. In developing its strategic plan under the Government Performance and Results Act, the U.S. Trade Representative said that it had received comments from, and provided comments to, other agencies. We reviewed the comments that the U.S. Trade Representative provided to other agencies in 1997 and modified our report accordingly, but we continue to believe that our recommendation is appropriate because neither the administration's fiscal year 2001 budget initiative for trade agreement compliance nor the U.S. Trade Representative's efforts to coordinate with other agencies in developing its strategic plan constitute the kind of comprehensive and sustained strategic planning for federal efforts to monitor and enforce trade agreements that we believe is necessary. In particular, the U.S. Trade Representative did not provide any evidence to show that either of these

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efforts involved a thorough interagency assessment of the human capital skills needed and available to handle current and future trade agreement monitoring and enforcement activities.

The U.S. Trade Representative also indicated that we misunderstood its statements in our assessment that steadily declining staff levels at the U.S. Trade Representative, Commerce, and Agriculture had adversely affected these agencies' monitoring and enforcement activities. It said that the U.S. Trade Representative was not referring to its own staff levels but was instead expressing concern about declining staff levels at other agencies that support the U.S. Trade Representative's monitoring and enforcement efforts. We agree that the U.S. Representative officials were particularly concerned about their ability to obtain support from other agencies, but we also consistently heard from U.S. Trade Representative staff that they were stretched too thinly to handle their own monitoring and enforcement workload. Moreover, we note that the administration is requesting 25 additional staff for the U.S. Trade Representative in fiscal year 2001, at least half of which are to be allocated to trade agreement compliance.

Commerce and Agriculture generally agreed with our report and its recommendation. Commerce characterized our report as helpful and said it plans to implement our recommendation to better develop its strategy for managing the compliance workload. Commerce also mentioned the President's recent compliance initiative contained in his fiscal year 2001 budget request. Agriculture said that it supported the report's conclusions and recommendation and noted that it intends to work with the U.S. Trade Representative to improve interagency coordination of federal monitoring and enforcement efforts through existing interagency coordination structures.

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We are sending copies of this report to appropriate congressional committees. We are also sending copies of this report to the Honorable Charlene Barshefsky, U.S. Trade Representative; the Honorable Madeleine K. Albright, Secretary of State; the Honorable William M. Daley, Secretary of Commerce; and the Honorable Dan Glickman, Secretary of Agriculture. Copies will also be made available to others upon request.

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If you or your staff have any questions about this report, please contact me on (202) 512-4128. Other GAO contacts and staff acknowledgments are listed in appendix IX.

Sincerely yours,

A handwritten signature in cursive script that reads "Susan S. Westin".

Susan S. Westin  
Associate Director  
International Relations and Trade Issues

# Executive Branch, Congressional, and Private Sector Structures for Monitoring and Enforcing Trade Agreements

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At least 17 federal agencies, led by the Office of the U.S. Trade Representative (USTR), are involved in U.S. government efforts to monitor and enforce trade agreements. USTR and the Departments of Agriculture, Commerce, and State have relatively broad roles and responsibilities with respect to trade agreement monitoring and enforcement, while other agencies play more specialized roles. Federal monitoring and enforcement efforts are coordinated through an interagency mechanism comprised of several management- and staff-level committees and subcommittees. The congressional structure for funding and overseeing federal monitoring and enforcement activities is also complex because it involves multiple committees of jurisdiction. In addition to the executive branch and congressional structures, multiple private sector advisory committees exist to provide federal agencies with policy and technical advice on trade matters, including trade agreement monitoring and enforcement.

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## Federal Structure for Monitoring and Enforcing Trade Agreements Includes Multiple Agencies

Among the multiple agencies involved in monitoring and enforcing U.S. trade agreements, some have a mandate that specifically focuses on trade, including USTR and the Departments of Agriculture, Commerce, and State. Other agencies' missions are closely related to trade issues, such as the Department of the Treasury, or the agencies have a particular expertise that is sometimes relevant to trade, such as the Food and Drug Administration or the Environmental Protection Agency.



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**USTR**

USTR is the primary agency responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy and leading or directing negotiations with other countries on such matters. As part of its overall mission, and as derived from certain key trade statutes, USTR is also the primary agency responsible for monitoring and enforcing U.S. trade agreements. For example, USTR is statutorily required to annually identify foreign policies and practices that constitute significant barriers to U.S. exports of goods and services and particularly consider whether any identified policies or practices are covered by international agreements to which the United States is a party. Further, USTR is required to refer to the appropriate agency any unfair trade practice that it considers to be inconsistent with the provision of any trade agreement and that may have a significant adverse impact on U.S. commerce.<sup>1</sup> Finally, USTR is authorized to initiate actions to enforce U.S. rights under bilateral and multilateral trade agreements, at its own discretion or as petitioned by private enterprises or individuals.<sup>2</sup> Among its other responsibilities, USTR chairs the interagency organization that oversees the multiple interagency committees that have been formed for coordinating trade policy.

Staff in several USTR offices carry out the agency's monitoring and enforcement responsibilities. USTR's organizational structure includes geographic, industry, multilateral affairs, and general support offices, including legal and economic functions. In 1996, USTR established the Monitoring and Enforcement Unit within its Office of General Counsel to help coordinate the implementation of USTR's statutory obligations to monitor and enforce trade agreements. The Monitoring and Enforcement Unit is devoted exclusively to monitoring all U.S. trade agreements and implementing U.S. trade laws, determining compliance by foreign governments, and pursuing litigation actions necessary to defend U.S. rights under those agreements and laws. The Monitoring and Enforcement Unit focuses on enforcing trade agreements, handling USTR's docket of World Trade Organization (WTO) and North American Free Trade Agreement (NAFTA) dispute settlement cases, among other things.

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**Commerce Department**

Commerce has general responsibility for major nonagricultural trade functions of the U.S. government, including monitoring and taking certain

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<sup>1</sup>19 U.S.C. 2171 and 19 U.S.C. 2241.

<sup>2</sup>19 U.S.C. 2412.

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steps to secure compliance with trade agreements and ensuring that U.S. companies have access to foreign markets. Commerce's monitoring role is largely derived from its membership in the interagency trade policy committees and from a 1979 executive branch reorganization plan rather than from any specific statutory mandate.<sup>3</sup> However, Commerce is statutorily responsible, along with the U.S. International Trade Commission, for administering U.S. unfair trade laws.<sup>4</sup> These laws require Commerce to assess whether imports have benefited from foreign subsidies or have been sold at less than fair market value in the United States. Commerce also shares statutory responsibility with USTR for monitoring violations of WTO rules concerning member countries' subsidy practices.<sup>5</sup>

Commerce's trade activities are carried out primarily by its International Trade Administration, which is organized like USTR into geographic and industry offices. In 1996, the International Trade Administration created a Trade Compliance Center to help ensure that U.S. trade agreements are properly monitored and compliance issues are promptly addressed. The Trade Compliance Center helps coordinate Commerce's monitoring activities. Among its activities, it maintains a data base to give U.S. exporters access to information about trade agreements and invites companies to notify it about problems in complying with trade agreements.<sup>6</sup> The International Trade Administration's monitoring and enforcement efforts are assisted by staff in its U.S. and Foreign Commercial Service that are stationed in certain U.S. embassies and consulates,<sup>7</sup> and by Commerce's Office of General Counsel.

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<sup>3</sup>44 Fed. Reg. 69273, December 3, 1979 (19 U.S.C. 2171, notes).

<sup>4</sup>19 U.S.C. 1677.

<sup>5</sup>19 U.S.C. 3571.

<sup>6</sup>We reported on Commerce's efforts to create this data base in *International Trade: Improvements Needed to Track and Archive Trade Agreements* (GAO/NSIAD-00-24, Dec. 14, 1999). The data base can be found on the internet at <http://www.mac.doc.gov/tcc>.

<sup>7</sup>The U.S. and Foreign Commercial Service is a global network located in more than 220 cities worldwide that assists U.S. exporters by promoting and protecting U.S. business interests abroad. In the United States, the service operates a hub-and-spoke network of 92 Export Assistance Centers, which offer companies a comprehensive range of export facilitation services in one location.

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## Agriculture Department

The Department of Agriculture provides technical assistance to USTR on matters pertaining to agricultural trade, including international negotiations on agricultural trade agreements. Agriculture is statutorily responsible for implementing and monitoring the agricultural provisions of the World Trade Organization and NAFTA.<sup>8</sup> Agriculture is required to report to USTR and specified congressional committees on any lack of compliance with WTO provisions that adversely affects U.S. agricultural trade.<sup>9</sup>

The Foreign Agricultural Service handles the Department of Agriculture's trade activities and works with USTR and State on international agricultural trade issues. The Foreign Agricultural Service's mission is to open, expand, and maintain global market opportunities for U.S. agricultural products. In its efforts to address problems with trade agreement compliance, it coordinates regularly with other Department of Agriculture agencies that have certain technical expertise and with the Department of Agriculture's Office of General Counsel. Its organizational structure includes country desks, agricultural commodity offices, and multilateral affairs offices. Since 1995, the Foreign Agricultural Service has steadily enhanced its ability to address an increasingly prominent form of trade barrier—other countries' health and food safety measures that may restrict imports of agricultural products. Its monitoring and enforcement activities are greatly aided by its staff that cover agricultural issues in 130 countries from 64 U.S. diplomatic posts.

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## State Department

The Department of State advises USTR on the foreign policy implications of any trade-related actions and participates in trade negotiations that have a direct and significant impact on foreign policy. Although not explicitly responsible for monitoring and enforcing trade agreements, State nevertheless plays an important role in this area.<sup>10</sup> State's Bureau of Economic and Business Affairs has overall responsibility for formulating and implementing policy regarding foreign economic matters. In addition, through State's extensive network of embassies, consulates, and other

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<sup>8</sup> U.S.C. 5606, 7 U.S.C. 5674, 19 U.S.C. 3381, and 19 U.S.C. 3391.

<sup>9</sup> U.S.C. 5606.

<sup>10</sup> Reorganization Plan No. 3 of 1979 (44 Fed. Reg. 69273, sec. 7, Sept. 25, 1979), as amended (19 U.S.C. 2171, notes). This plan emphasizes the importance of State's foreign policy expertise to trade policy.

overseas missions, State economic officers—through their in-country contacts with U.S. businesses and foreign government officials—provide instrumental assistance in monitoring and enforcing trade agreements.

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## Other Agencies

In addition to these 4 agencies, at least 13 other federal agencies are also involved in the monitoring and enforcement of trade agreements. These agencies generally play more specialized roles by providing technical or policy input that is derived from their particular agency mission or areas of expertise. For example, the Department of the Treasury, whose mission is to promote a prosperous and stable U.S. and world economy, is responsible for developing policies on international monetary affairs, trade and investment, international debt strategy, and U.S. participation in international financial institutions. The Treasury advises USTR on the financial services aspects of trade agreements. Similarly, the Department of Labor advises USTR on any labor and workers' rights issues that are associated with trade agreements.

As trade agreements have grown more technical, these specialized agencies' input has become increasingly important for analyzing and resolving trade compliance issues. For example, the Foreign Agricultural Service relies on several regulatory agencies, such as the Department of Health and Human Services' Food and Drug Administration, to help it address other countries' health and food safety measures that affect U.S. exports; these agencies have the expertise to understand and evaluate the scientific bases of other countries' measures.<sup>11</sup>

Among these 13 agencies, the U.S. International Trade Commission plays a unique role due to its broad investigative powers in monitoring trade data and trade agreements. The Commission is an independent fact-finding agency whose activities include gathering, analyzing, and reporting on trade developments and the operation of trade agreements. The Commission must investigate and make reports to USTR and to Congress whenever requested, thus enhancing executive branch efforts to monitor and enforce trade agreements.<sup>12</sup>

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<sup>11</sup>We reported on U.S. efforts to address other countries' health and food safety measures that restrict U.S. exports in *Agricultural Exports: U.S. Needs a More Integrated Approach to Address Sanitary/Phytosanitary Issues* (GAO/NSIAD-98-32, Dec. 11, 1997).

<sup>12</sup>Section 332 of the Tariff Act of 1930 (19 U.S.C. 1332 (a), (b), and (g)).

## **Statutory Interagency Coordination Structure Is Comprised of Multiple Committees, Subcommittees, and Task Forces**

Congress created an interagency structure in the Trade Expansion Act of 1962, as amended by the Trade Act of 1974,<sup>13</sup> to help ensure that the development of trade policy reflects a range of agency perspectives and is coordinated throughout the government. This structure, called the Trade Policy Committee, is chaired by USTR and includes the Secretaries of State, Agriculture, Commerce, the Treasury, and Labor.<sup>14</sup> The Trade Policy Committee has two subordinate bodies—the Trade Policy Review Group (a management-level committee) and the Trade Policy Staff Committee (a senior staff-level committee subordinate to the management level committee). These subordinate committees include all the agencies that are members of the Trade Policy Committee, and a wide range of other agencies as well.

Among these multiple interagency coordination mechanisms, the Trade Policy Staff Committee is the most active. This committee operates primarily through a network of subcommittees and task forces. These units are chaired by USTR staff and are composed of staff from a wide range of federal agencies. USTR assigns responsibilities for issue analysis to members of the appropriate staff subcommittee or task force. Since trade issues cut across both geographic and functional lines, subcommittees have been formed to deal with both regional and industry-specific issues. In addition, several specialized task forces have been formed to deal with specific trade issues. Table 1 shows the breadth of topics covered by Trade Policy Staff Committee subcommittees.

**Table 1: Trade Policy Staff Committee Subcommittees and Task Forces**

<b>Name of subcommittee or task force</b>	<b>Geographic subcommittee</b>	<b>Functional subcommittee</b>	<b>Task force</b>
Africa	X		
Andean Countries	X		
ASEAN	X		
Australia/New Zealand	X		

Continued

<sup>13</sup>19 U.S.C. 1872.

<sup>14</sup> The Trade Policy Committee was established by Executive Order 11846, on March 25, 1975.

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<b>Name of subcommittee or task force</b>	<b>Geographic subcommittee</b>	<b>Functional subcommittee</b>	<b>Task force</b>
Canada	X		
Caribbean/CBI	X		
Central America	X		
China	X		
Eastern/Central Europe	X		
European Union	X		
European Union Transatlantic Economic Partnership	X		
Free Trade Area of the Americas	X		
India	X		
Israel	X		
Japan	X		
LDC Trade Issues	X		
Mexico	X		
Middle East	X		
North Africa	X		
Russia	X		
Sub-Saharan Africa	X		
South Asia	X		
Southern Cone	X		
Taiwan	X		
Aerospace Trade Issues		X	
Aeronautical Equipment		X	
Agriculture		X	
Antidumping		X	
Barter and Countertrade		X	
Business and Professional Services		X	
Chemical Trade		X	
Commodity Agreements		X	
Congressional Liaison		X	
Customs (Including Harmonized System and Customs Valuation Code)		X	
Economic Analysis		X	
Energy Issues		X	
European Union MRAs		X	

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<b>Name of subcommittee or task force</b>	<b>Geographic subcommittee</b>	<b>Functional subcommittee</b>	<b>Task force</b>
EU Transatlantic Economic Partnership		X	
Export Financing		X	
Fisheries		X	
Generalized System of Preferences		X	
Government Procurement Code		X	
High Technology Trade Issues		X	
Import Licensing		X	
Information Systems		X	
Intellectual Property		X	
Intergovernmental Relations		X	
Investment		X	
Non-Tariff Barriers		X	
OECD Trade Issues		X	
Preferential Trading Arrangements		X	
Pre-Shipment Inspections		X	
Rules of Origin		X	
Safeguards		X	
Section 301 <sup>a</sup>		X	
Section 337 <sup>b</sup>		X	
Semiconductors		X	
Services		X	
Shipbuilding		X	
Space Industries Trade		X	
Standards		X	
Steel		X	
Subsidies		X	
Tariffs		X	
Basic Telecom		X	
Trade and Competition		X	
Trade and the Environment		X	
Trade and Labor Standards		X	
Trade and Technology		X	
Trade Policy Issues Related to International Finance		X	

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<b>Name of subcommittee or task force</b>	<b>Geographic subcommittee</b>	<b>Functional subcommittee</b>	<b>Task force</b>
UNCTAD Trade Issues		X	
Wood Products		X	
WTO Dispute Settlement		X	
WTO Sanitary and Phytosanitary Measures		X	
WTO Regional Trade Agreements		X	
Driftnet Fishing Sanctions			X
Russian Space Launch			X
Trade With Guam			X
Softwood Lumber			X
Tobacco Import Licensing			X
Wheat Gluten			X
WTO Telecom Services			X

Continued from Previous Page

Legend

ASEAN = Association of Southeast Asian Nations  
 CBI = Caribbean Basin Initiative  
 EU = European Union  
 LDC = Least Developed Country  
 MRA = Mutual Recognition Agreement  
 OECD = Organization for Economic Cooperation and Development  
 UNCTAD = United Nations Conference on Trade and Development

<sup>a</sup>The Section 301 subcommittee addresses unfair trade practices.

<sup>b</sup>The Section 337 subcommittee addresses intellectual property rights violations.

Source: USTR.

## Funding and Oversight of Federal Monitoring and Enforcement Efforts Exercised by Multiple Congressional Committees

Numerous committees and subcommittees of the U.S. Senate and House of Representatives have jurisdiction over the agencies that participate in federal monitoring and enforcement efforts. These Committees typically have responsibilities along budgetary, agency, or subject area lines. For example, the Senate Committee on Appropriations allocates jurisdiction for federal funding to various subcommittees. USTR, Commerce, and State are all covered by one subcommittee, and Agriculture is covered by another. In addition, at least five other Senate committees (Agriculture, Nutrition and Forestry; Banking, Housing and Urban Affairs; Finance; Foreign Relations; and Commerce, Science and Transportation) have subject area jurisdiction over certain trade matters. The situation is similar in the House of Representatives, where at least seven committees have funding or subject area jurisdiction over trade issues and responsible



agencies (Agriculture; Appropriations; Banking and Financial Services; Commerce; International Relations; Small Business; and Ways and Means).

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## **Congress Created Multiple Private Sector Advisory Committees**

In the Trade Act of 1974, Congress created a private sector advisory committee system to ensure that U.S. trade policy and negotiation objectives reflect U.S. commercial and economic interests.<sup>15</sup> Congress expanded and enhanced the role of this system in three subsequent acts. Numerous advisory committees grew from these acts that provide information and advice both prior to entering into trade agreement negotiations and on other matters relating to U.S. trade policy.<sup>16</sup> The committee with the broadest representation is the President's Advisory Committee for Trade Policy and Negotiations, whose 45 members are appointed by the President. This committee considers trade policy issues in the context of the overall national interest. The advisory system is also composed of committees with more specific representation and responsibility. These include 6 additional policy advisory committees and 26 specific committees designed to provide technical advice. These technical committees focus on industry-specific sectors; agricultural commodities; or, in the case of the functional committees, cross-sectoral issues. (See table 2.) In total, the advisory system has about 1,000 members. These committees, most of which meet on a fairly regular basis, enhance communication and information-sharing between the federal government and the private sector about federal monitoring and enforcement efforts.

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<sup>15</sup>Section 185 of the Trade Act of 1974 (19 U.S.C. 2155).

<sup>16</sup>Pursuant to section 135 (c) (1) and (2) of the Trade Act of 1974, as amended (19 U.S.C. 2155), 17 Industrial Sector Advisory Committees, 4 Industrial Functional Advisory Committees, and 5 Agricultural Technical Advisory Committees were established.

**Appendix I  
Executive Branch, Congressional, and  
Private Sector Structures for Monitoring and  
Enforcing Trade Agreements**

**Table 2: Private Sector Advisory Committees**

<b>Name of committee</b>	<b>Policy Advisory Committees</b>	<b>Industry Sector/ Agriculture Technical Advisory Committees</b>	<b>Industry Functional Committees</b>
Trade Policy and Negotiations	X		
Intergovernmental Policy	X		
Africa Trade	X		
Agricultural Policy	X		
Labor	X		
Defense Policy	X		
Trade and Environment	X		
Aerospace Equipment			X
Capital Goods			X
Chemicals and Allied Products			X
Consumer Goods			X
Electronics and Instrumentation			X
Energy			X
Ferrous Ores and Metals			X
Footwear, Leather, Leather Products			X
Building Products and Other Materials			X
Lumber and Wood Products			X
Nonferrous Ores and Metals			X
Paper and Paper Products			X
Services			X
Small and Minority Business			X
Textiles and Apparel			X
Transportation, Construction, Mining, and Agricultural Equipment			X
Wholesaling and Retailing			X
Trade in Fruits and Vegetables			X
Trade in Sweeteners			X
Trade in Animal and Animal Products			X
Trade in Grain, Feed, and Oilseeds			X

Continued

**Appendix I  
Executive Branch, Congressional, and  
Private Sector Structures for Monitoring and  
Enforcing Trade Agreements**

<b>Name of committee</b>	<b>Policy Advisory Committees</b>	<b>Industry Sector/ Agriculture Technical Advisory Committees</b>	<b>Industry Functional Committees</b>
Trade in Tobacco, Cotton, and Peanuts		X	
Customs			X
Standards			X
Intellectual Property Rights			X
Electronic Commerce			X

Continued from Previous Page

Source: USTR, Commerce, and Agriculture data.

Other nongovernmental advisory mechanisms also provide government agencies with advice on trade-related matters. These mechanisms, which often include the participation of trade associations, can provide agencies with information about foreign noncompliance with trade agreements and help in developing strategies to address such instances. For example, the Meat Industry Trade Policy Council, a coalition of meat and agricultural groups that aims to create export opportunities for the U.S. meat and poultry industry, advocates on behalf of its members before USTR, Agriculture, and Commerce. As part of this effort, the Council notifies these agencies of foreign practices that disrupt the flow of trade, including those that may violate trade agreements.

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# Key Federal Monitoring and Enforcement Activities

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The task of monitoring and enforcing foreign compliance with trade agreements has become more complex as the number of trade agreements and trade agreement partners has grown and the issues covered by trade agreements have expanded. Responsible units, including those at USTR, Commerce, and Agriculture that we examined, perform a number of key activities to monitor and enforce trade agreements. These activities include identifying compliance problems, prioritizing the unit's workload, analyzing information about selected compliance problems, seeking ways to resolve such problems including taking enforcement action, and coordinating with other agencies and the private sector.

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## Identifying Problems

USTR, Commerce, and Agriculture use several sources of information to identify potential compliance problems. Most of the offices we examined at these agencies said that the private sector was the most important source of information for the compliance problems they work on. This is because the private sector is closer to the market than the government and is usually in the best position to identify potential problems. Agency staff working in U.S. embassies were another prominent source of information because of their ability to monitor developments in the country where they are posted and to interact with local government and private sector officials. Commerce and Agriculture generally relied on their own staff posted overseas, while USTR generally relied on other agencies' staff, particularly State Department staff posted overseas.

Some of the offices we examined had other unique sources of information for identifying compliance problems. For example, officials in USTR's Office of WTO and Multilateral Affairs and the Foreign Agricultural Service's Multilateral Trade Negotiations Division said they had identified certain compliance problems because of their responsibility for reviewing information that WTO members are required to report under certain WTO agreements. Many WTO agreements, including those on agriculture, import licensing, and subsidies, require countries to provide information to the WTO at least yearly about their current and proposed practices related to implementing the agreement. In addition, USTR's Monitoring and Enforcement Unit monitors all WTO dispute settlement actions between foreign governments to determine whether the compliance issues involved are relevant to the United States.

One compliance case we examined illustrates how compliance issues may be identified. In 1990, the United States and Korea entered into a bilateral agreement in which Korea promised to import steadily increasing levels of

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U.S. beef each year. During 1997 and 1998, the Foreign Agricultural Service's Dairy, Livestock, and Poultry Division was closely watching Korea's compliance with the agreement because of difficulties Korea was experiencing as a result of the Asian financial crisis. Working with Foreign Agricultural Service staff in Korea and interested private sector parties, the division determined that Korea had failed to import the agreed-upon amounts of beef in 1997 and 1998. The division did so by comparing import data to the annual import commitments contained in the agreement.

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## Setting Priorities

All of the offices we examined faced a substantial trade agreement monitoring and enforcement workload, in addition to their other responsibilities, such as trade agreement negotiation or market development activities. As a result, managers and staff in these offices had to prioritize among the multiple trade agreements and compliance issues needing their attention. We found certain common criteria that all of the offices applied in setting priorities and determining which compliance issues they should address, including the amount of U.S. trade and the trade principles at stake and any deadlines the offices faced.

The USTR, Commerce, and Agriculture offices we examined generally tried to maximize the impact of their monitoring and enforcement efforts by giving priority to compliance issues that affect a high dollar value of U.S. trade.<sup>1</sup> However, several U.S. and private sector officials stated that doing so raises questions about whether compliance issues that affect a small value of trade get sufficient attention from the government. By making trade principles another monitoring and enforcement priority, agencies help ensure that any compliance issue that has important trade policy implications also gets addressed. For example, USTR and the Foreign Agricultural Service put significant effort into addressing Hungary's failure to comply with certain export subsidy limits in the WTO Agreement on Agriculture, even though the United States generally does not compete with Hungary in export markets. These agencies addressed the issue primarily to preserve the integrity of the agreement and to prevent other countries from following Hungary's example.

Notwithstanding their efforts to prioritize according to these criteria, managers and staff in the offices we examined said that upcoming

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<sup>1</sup>Commerce's Trade Compliance Center places a high priority on serving as a resource for small- and medium-sized exporters.

deadlines were an equally and sometimes more influential factor in setting priorities. Several staff described setting their own priorities based primarily on which deadline had to be met next. Deadlines can flow from such things as congressional reporting requirements; WTO reporting requirements; preparing for and attending various meetings, either among U.S. agencies, with foreign officials, or as required by certain trade agreements or international organizations; and the specific time lines required to pursue formal dispute settlement cases.

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## **Gathering and Analyzing Information**

Once agencies have identified potential compliance problems, they must be able to gather and analyze a wide range of information about these problems. For example, staff in the offices we examined said they need information to document foreign governments' commitments, such as copies of trade agreements and information about any formal or informal commitments foreign governments made to the United States. They also reported needing information on what the foreign government or private sector actors are doing that caused the allegation of noncompliance. This includes documentation of a foreign government's current or proposed laws and regulations; documentation on foreign practices that may be inconsistent with trade obligations; and various trade and foreign market data, such as prices, distribution of market share, and foreign product consumption trends. Staff said they also need information about U.S. and foreign industry practices and procedures in order to fully understand how best to address an issue. Finally, information about any political dimensions of the foreign government's action or position is often useful.

Once the offices have gathered all necessary and available information, they begin an analytical process that may require a wide range of expertise and, therefore, may require input from other offices or agencies. The type and amount of analysis that is done depend on the nature of the case and how elaborate U.S. efforts to address the case become. In several compliance cases we examined, economic analysis was done to assess how economic problems in the foreign country led to the compliance problem and what impact the compliance problem had on U.S. trade. In other cases, legal analysis was done to assess relevant trade agreement provisions and commitments made by the foreign government and to determine whether the compliance issue violated those provisions. As trade agreements become more complex, technical analysis is increasingly done to compare the U.S. and foreign approach to relevant regulatory or scientific issues. For example, in one compliance case we examined, USTR argued that Japanese requirements that each U.S. apple variety be tested for certain

pests before Japanese officials would approve the varieties for import were not based on sound scientific evidence. In addition, strategic or policy analysis is done to weigh various response options available to the United States and the appropriate timing of such a response.

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## **Developing Responses**

The process of developing and implementing responses to compliance problems is a collaborative effort between the federal government and the private sector, the overall goal of which is to resolve compliance problems quickly in the most commercially beneficial way for the private sector. During this process, responsible agencies weigh other agencies' perspectives and private sector interests to develop the most appropriate U.S. response. Their success in resolving compliance problems depends on a number of factors, some of which they do not control. These include (1) the nature of the compliance problem itself; (2) the degree of private sector support and commitment to resolving the problem; (3) the level of resources that multiple agencies can and will devote to resolving the problem; (4) the extent to which the United States can bring to bear sufficient leverage and the foreign government's willingness to respond to the problem; and (5) the available means to enforce compliance, which is tied to the specific terms of the agreement and whether any consultative or legal recourse mechanisms are available.

The USTR, Commerce, and Agriculture offices we examined described using various methods and levels of communication with foreign governments in their attempts to resolve compliance problems. For example, one common method is to have U.S. embassy staff deliver a demarche, or formal message, to relevant foreign agency officials that outlines the U.S. position regarding the compliance problem. Another common method is to discuss the problem in meetings of the WTO committees that oversee the implementation of individual agreements. For example, in one compliance case we examined, the United States raised concerns about a proposed Swiss agricultural regulation in two WTO committees overseeing two different agricultural agreements and successfully persuaded Switzerland to modify its regulation.

Compliance issues cannot be resolved as quickly when the issue itself is complex, agreement terms are vague or subject to interpretation, or the foreign government is unresponsive to U.S. resolution efforts. Under such circumstances, U.S. efforts enter a protracted phase in which agencies look for opportunities to raise the issue at appropriate and increasingly higher levels within the foreign government. For example, in one compliance case

we examined, USTR officials learned that Peru planned to request a precedent-setting extension of time to meet its obligations to the United States under the WTO agreement on customs valuation. USTR officials in Washington and overseas coordinated their efforts to raise the issue with four different Peruvian officials in four separate forums and locations on the same day. The approach persuaded Peru to work with USTR to resolve the problem.

Because of differences in their legislative authority, USTR, Commerce, and Agriculture play different roles in the resolution process. Offices from all three agencies may take the lead in addressing an issue in the early stages, but USTR is the only agency authorized to invoke dispute settlement procedures on behalf of the United States. Therefore, its involvement conveys the seriousness of the U.S. government's commitment to resolve an issue.

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## **Taking Enforcement Action**

In some cases, the U.S. government must make a decision about invoking dispute settlement procedures where provided by trade agreements or about taking other actions under U.S. trade law, such as increasing tariff levels on foreign imports. According to U.S. and private sector officials, initiating dispute settlement procedures requires considerable time and effort by both the government and the private sector. For example, officials in USTR's Monitoring and Enforcement Unit told us that a substantial amount of evidence may be required to prove one's case in dispute settlement proceedings. They also told us that the process can be time-consuming—two prominent WTO dispute settlement cases the United States initiated against the European Union, on European Union import measures for hormone-treated beef and bananas, were each pending in the WTO's dispute settlement system for about 3 years. Finally, USTR officials told us that, from the U.S. government's perspective, the outcome of WTO dispute settlement cases can have positive and negative impacts on the global trading system. Therefore, USTR's Monitoring and Enforcement Unit closely monitors developments in many WTO cases, whether or not the United States is a participant. For these reasons, decisions to proceed with dispute settlement are always vetted through an interagency process that considers how such actions affect a broad range of U.S. interests.



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## **Coordination With Other Agencies and the Private Sector**

Many agency officials noted that interagency coordination is necessary and beneficial throughout this process for obtaining a breadth of agency perspectives and expertise, developing cohesive U.S. positions to address compliance issues, leveraging available resources, and bringing the full weight of the U.S. government to bear in seeking resolutions to problems. Staff in the offices we examined regarded interagency coordination as an inherent aspect of federal monitoring and enforcement efforts, although it was recognized that the quality of such coordination was sometimes uneven because it is very dependent on the level of commitment by other agencies. In some areas, like within Agriculture or between USTR and certain parts of Commerce and State, coordination appears to be active and effective. However, because the overall amount and quality of participation by other agencies in interagency trade policy committees have diminished in recent years, USTR officials report that they do not always have the breadth of perspectives or information needed to develop or advance U.S. positions. As a result, USTR is less able to perform its role of weighing different agency perspectives to determine the overall U.S. national interest in trade policy matters.

The offices we examined also regarded private sector support as crucial to the success of their monitoring and enforcement efforts. Officials said the private sector knows the market and has contacts, information, expertise, and other resources the U.S. government lacks. It takes a pragmatic point of view toward resolving problems and can be a source of creative strategies. The private sector can also marshal political backing in the United States and abroad, increasing U.S. leverage for resolving compliance issues.

# Key Reporting Mechanisms Related to Trade Agreement Monitoring and Enforcement

U.S. agencies are required by domestic law to prepare a variety of trade-related reports that assist them in their efforts to monitor and enforce trade agreements. Since these are monitoring tools, preparation of some of the reports requires agencies to review the operation or implementation of certain trade agreements. In addition, some of the reports provide information necessary for U.S. agencies to consider in taking enforcement action. The reporting requirements range from supplying comprehensive coverage of a wide array of trade issues, industries, or geographic sectors to providing a narrow focus on specific issues or areas. Table 3 provides more detailed information on many of the key reporting mechanisms.

**Table 3: Key Reporting Mechanisms Used in Monitoring and Enforcing Trade Agreements**

Lead responsible agency	Reporting mechanisms	Frequency of report	Description
USTR	Annual Report on the Trade Agreements Program (19 U.S.C. § 2213)	Annual	This report provides information on the operation of the trade agreements program and the provisions of import relief and adjustment assistance to workers and firms. In part, the report covers areas such as new trade negotiations, changes in trade agreements, and the results of actions to remove foreign trade restrictions against U.S. exports and eliminate foreign practices that discriminate against U.S. service industries.
USTR	Trade Policy Agenda (19 U.S.C. § 2213)	Annual	The report is a statement of U.S. trade policy objectives and any actions proposed to achieve those objectives, including proposed legislation and progress made during the preceding year in achieving prior objectives.
USTR	National Trade Estimate (NTE) Report on Foreign Trade Barriers (19 U.S.C. § 2241)	Annual	The report identifies and estimates the impact of acts, policies, or practices of foreign countries that constitute significant barriers to U.S. exports of goods and services, property protected by intellectual property rights, foreign direct investment, and U.S. electronic commerce. The NTE also notes any action taken to reduce or eliminate barriers described in the reports.
USTR	Report on the World Trade Organization (19 U.S.C. § 3534)	Annual	Report on the activities and work programs of the WTO in the preceding year, including any efforts by USTR to implement recommendations in a WTO dispute settlement report that was adverse to the United States.
USTR	Identification of Trade Expansion Priorities (Super 301) (19 U.S.C. § 2420 note containing Executive Order 13116)	Annual	Section 310 of the Trade Act of 1974, as amended, is commonly referred to as "Super 301." In the Super 301 report, USTR annually reviews U.S. trade expansion priorities to identify in a report those foreign country practices, which, if eliminated, would most likely increase U.S. exports.

Continued

**Appendix III  
Key Reporting Mechanisms Related to Trade  
Agreement Monitoring and Enforcement**

<b>Lead responsible agency</b>	<b>Reporting mechanisms</b>	<b>Frequency of report</b>	<b>Description</b>
USTR	Special 301 Review (19 U.S.C. § 2242)	At least annually	Section 182 of the Trade Act of 1974, as amended, is commonly referred to as "Special 301." This section requires USTR to identify those countries that deny adequate and effective protection for intellectual property rights, or fair and equitable market access for U.S. persons that rely on intellectual property protection. USTR shall only designate as "priority foreign countries" those that have the most onerous or egregious practices and whose practices have the greatest adverse impact on the relevant U.S. products.
USTR	Annual Review of Telecommunications Trade Agreements (19 U.S.C. § 3106)	Annual	This report reviews the operation and effectiveness of U.S. telecommunications trade agreements and determines whether any act or policy of a foreign country that has entered into a telecommunications-related agreement with the United States is either not in compliance with the terms of the agreement, or denies, within the context of the agreement, mutually advantageous market opportunities to telecommunications products and services of U.S. firms in that country.
USTR	Annual Report on Discrimination in Foreign Government Procurement (19 U.S.C. § 2420 note containing Executive Order 13116)	Annual	This report identifies foreign countries that are signatories to the WTO Government Procurement Agreement, NAFTA, or other agreements relating to government procurement and that are in violation of their obligations under these agreements. The report also identifies those countries that maintain a significant and persistent pattern of discrimination in government procurement against U.S. goods and services that results in identifiable harm to U.S. businesses and whose goods and services are purchased in significant amounts by the U.S. government.
USTR	Study on the Operation and Effect of NAFTA (19 U.S.C. § 3462)	Once in 1997	A comprehensive assessment of the net effect of NAFTA in areas such as the U.S. economy, labor and environmental conditions in Mexico, and pollution levels in the region of the U.S.-Mexican border.
USTR	Study on Trade With Mexico in Automobiles and Automobile Parts (19 U.S.C. § 3463)	Annual from 1995 through 1999	Annual review of the effectiveness of NAFTA provisions with respect to increasing U.S. exports of motor vehicles and motor vehicle parts to Mexico.
USTR and Commerce	Annual Report on Subsidies (19 U.S.C. § 3571)	Annual	This report describes the subsidy practices of major trading partners of the United States, and the monitoring and enforcement activities on the part of USTR and Commerce relating to these subsidy practices throughout the previous year.
Commerce and the Trade Promotion Coordination Committee	National Export Strategy (15 U.S.C. § 4727)	Annual	This report presents a U.S. governmentwide strategic plan that, in part, establishes priorities for federal activities supporting U.S. exports, evaluates current export programs to bring them in line with these priorities, and puts forth plans to eliminate overlap between programs.
U.S. International Trade Commission	The Year in Trade: Annual Report on the Operation of the Trade Agreements Program (19 U.S.C. § 2213)	At least annually	This report provides Congress with factual information on the operation of the trade agreement program.

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**Appendix III  
Key Reporting Mechanisms Related to Trade  
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<b>Lead responsible agency</b>	<b>Reporting mechanisms</b>	<b>Frequency of report</b>	<b>Description</b>
State	Country Economic Policy and Trade Reports (15 U.S.C. § 4711)	Annual	This report outlines the economic policy and trade practices of each country with which the United States has an economic or trade relationship, including acts, policies, and practices that constitute significant barriers to U.S. exports or foreign direct investment.
Treasury	National Treatment Study (22 U.S.C. § 5352)	Every 4 years	This report provides Congress with information regarding financial institutions from foreign countries that offer services in the United States, the types of services being offered by these companies, the extent to which foreign countries deny equal treatment to U.S. banking and securities concerns, and the efforts taken by the U.S. government to eliminate discriminatory practices.

Continued from Previous Page

Source: GAO analysis.

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# Staffing at Three Key Agencies Responsible for Trade Agreement Monitoring and Enforcement

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Despite the significant increase in the federal monitoring and enforcement workload that occurred in 1995 when the comprehensive World Trade Organization agreements took effect, overall staff levels at USTR and within responsible Commerce and Agriculture agencies or divisions have been flat or declining since that time, with the exception of 10 new positions for monitoring and enforcement added to USTR's budget in fiscal year 1998. Appropriations also did not always keep pace with authorized staffing levels. As a result, all three agencies had to pay for annual increases in salary and other costs by making unwanted staff cuts. USTR, meanwhile, has faced substantial staff turnover. Decisions to create dedicated monitoring and enforcement offices made in this environment resulted in a shift, not an increase, of resources. Some of these resources came from offices that have important monitoring responsibilities of their own. USTR staffing was increased in fiscal year 1998, but our work at USTR, Commerce, and Agriculture shows that some key agency offices are still struggling to overcome weakness that stem from inadequate resources of their own and at other agencies.

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## Staff Constraints Impair U.S. Compliance Efforts

Managers in all of the offices we examined said staff availability and expertise are the most important resources they need to monitor and enforce trade agreements and quickly and comprehensively address compliance problems. Our work at USTR, Commerce, and Agriculture shows that some agency offices generally have the amount and type of staff resources they need to monitor and enforce trade agreements, while others face resource challenges. Private sector representatives said that USTR, Commerce, and Agriculture were responsive to industry concerns and dedicated to resolving compliance problems but noted that the agencies' capacity to do so is limited.

Most staff with monitoring responsibilities also perform other functions, such as negotiating trade agreements or developing foreign market opportunities. Because agencies could not provide separate data, we analyzed data on staffing in the agencies or portions of agencies that have primary responsibility for trade agreement monitoring and enforcement.

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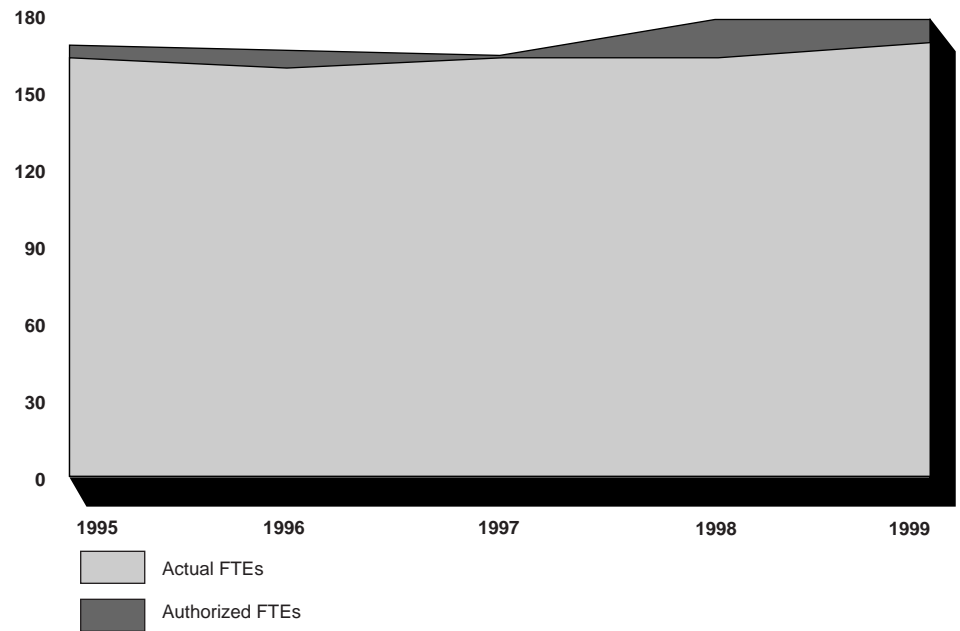
## USTR's Resources Have Been Flat and Attrition High

Actual staffing at USTR, which is the agency with the most extensive statutory monitoring and enforcement responsibilities, was relatively flat from fiscal years 1995 to 1998, before rising in fiscal year 1999, as shown in

**Appendix IV  
Staffing at Three Key Agencies Responsible  
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figure 5. Moreover, because its appropriation did not keep pace with rising costs, USTR was unable to hire as many staff as it was authorized.

**Figure 5: USTR Authorized and Actual Staff Levels, Fiscal Years 1995-99**



Legend

FTE = Full time equivalent

Source: USTR data.

USTR's actual staff levels reached a low point of 155 at the beginning of fiscal year 1998. For fiscal year 1998, USTR was authorized to hire 14 additional staff, and it added 7 lawyers to the Monitoring and Enforcement Unit to handle WTO dispute settlement cases. USTR's Japan Office staff also increased from 3 to 5, including one detailee from the Department of State. However, other important USTR offices shrank in size. For example, staffing in the Office of WTO and Multilateral Affairs, which is responsible for monitoring most WTO agreements, went from 10 slots in fiscal year 1996 to 9 slots in fiscal year 1999. Staffing in the Western Hemisphere unit, which monitors the North American Free Trade Agreement, declined from 13 slots in fiscal year 1995 to 9 in fiscal year 1999. In addition, about 14 percent of USTR's staff separated from the agency in each of the last 5 fiscal years (fiscal years 1995-99). Such

turnover can be particularly problematic because of USTR's tendency to have only one staff member covering a given trade topic. In part to bolster its ability to monitor and enforce trade agreements, USTR requested seven additional positions for fiscal year 2000, but no increases were authorized.

Some officials pointed out that USTR was designed to be a small, policy-focused agency and said it is not well equipped to perform resource-intensive activities, like trade agreement monitoring. In five of the six particular cases we examined, private sector officials said that USTR's staff levels had hindered efforts to resolve their compliance concerns. In the sixth case, industry provided extensive data analysis and other support to mitigate USTR's limited capacity. USTR staffing also affected other agencies' efforts. For example, in one case we examined, the U.S. company tried unsuccessfully for over a year to get USTR to address its concerns about a possible trade agreement violation by Korea that was blocking its exports. A company official stated that the company finally persuaded one of its Senators to ask Commerce about the issue at a congressional trade hearing, which investigated the problem and satisfactorily resolved it within a month.

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## Commerce Staffing Has Declined

Commerce provides support to USTR and has important monitoring responsibilities of its own. Its monitoring and enforcement workload has grown, both because of the increase in the number of U.S. trade agreements and because of a rise in the number of small- and medium-sized exporters that rely on Commerce for assistance in resolving market access concerns. The two divisions with the most export-related trade agreement monitoring responsibilities—Market Access and Compliance, and Trade Development—both experienced declining staff levels since fiscal year 1992.<sup>1</sup> Authorized staff allowances in the Market Access and Compliance division's operating units fell steadily, from 220 in fiscal year 1992 to 141 in fiscal year 1999, as shown in figure 6. The Market Access and Compliance division houses the Trade Compliance Center. After the Center's creation in 1996, Congress directed Commerce to allocate it 25 staff.<sup>2</sup> However, because Commerce did not receive an overall increase in

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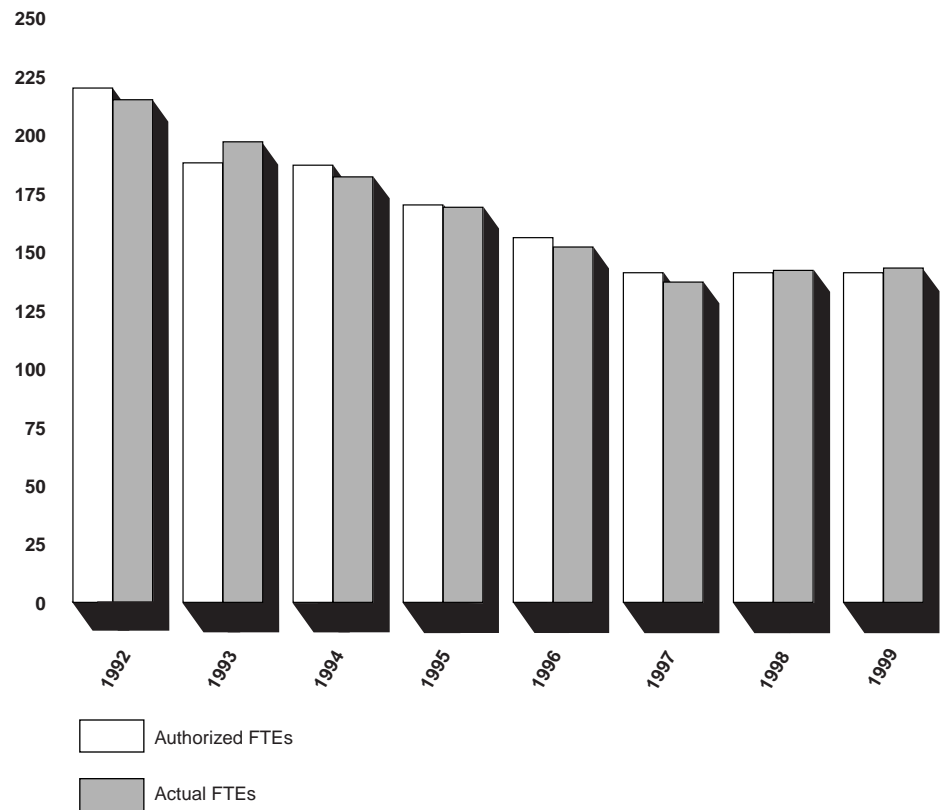
<sup>1</sup>The International Trade Administration's Import Administration Division monitors the implementation of certain trade agreements, notably those that address other countries' subsidy and dumping practices.

<sup>2</sup>Upon Commerce's request, this "earmark" was removed in fiscal year 1999.

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funds for the Market Access and Compliance division, other offices in this division decreased in size, as shown in figure 7. For example, the Japan office that monitors 18 U.S. trade agreements with Japan declined from 17 staff in fiscal year 1992 to 8 in fiscal year 1999. The unit responsible for monitoring NAFTA shrank from 33 to 13 during the same time period. The office that monitors trade with China had 5 positions in fiscal 1999, down from 10 in fiscal year 1994 and 7 in fiscal year 1992.

**Figure 6: Operating Units' Authorized and Actual Staffing in the International Trade Administration's Market Access and Compliance Division, Fiscal Years 1992-99**

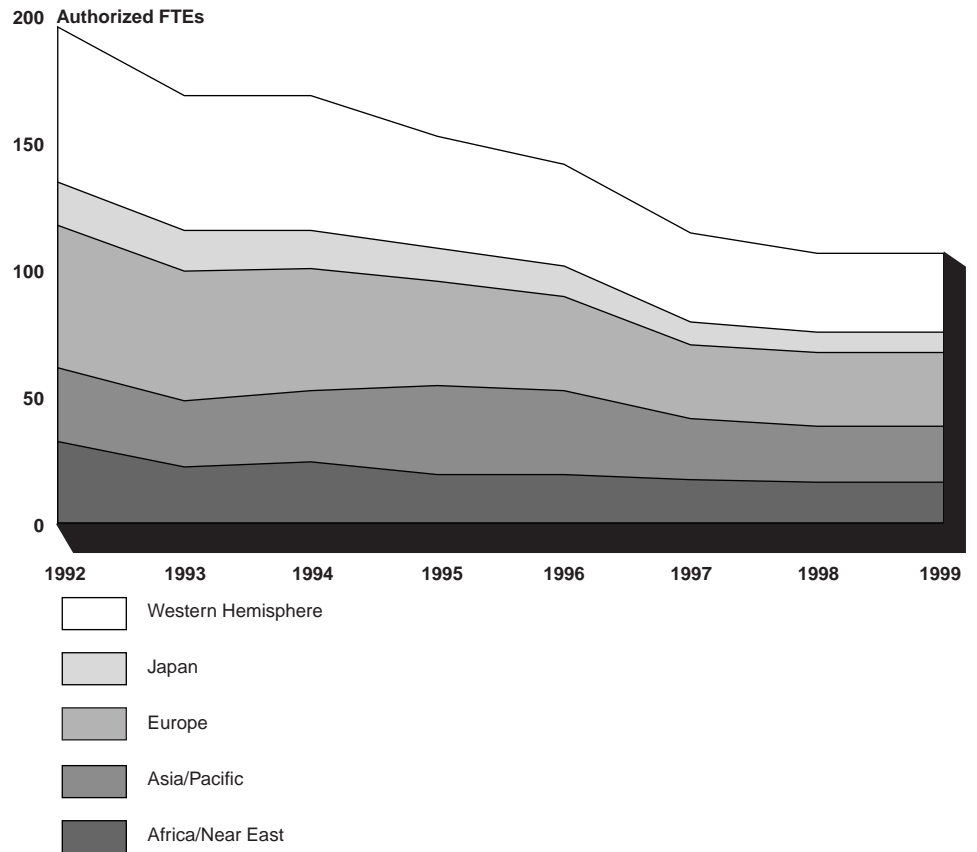


Legend  
FTE = Full time equivalent  
Source: Commerce Department data



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**Figure 7: Authorized Staff Allowance by Region in the International Trade Administration's Market Access and Compliance Division, Fiscal Years 1992-99**



Legend

FTE = Full time equivalent

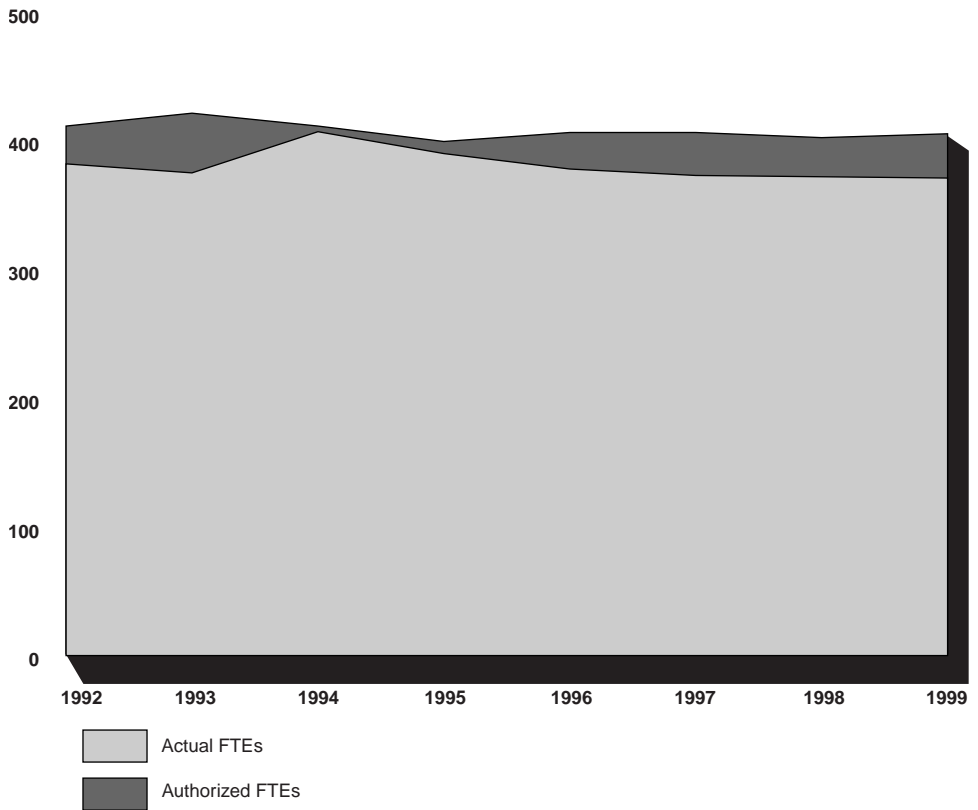
Source: Commerce Department data.

Overall actual staffing in Commerce's Trade Development division, which is responsible for monitoring over 100 U.S. trade agreements on sectors such as aerospace, telecommunications, services, and textiles, fell by about 9 percent between fiscal years 1994 and 1999, as shown in figure 8. However, some offices experienced larger staffing declines. The Office of Automotive Affairs, which monitors bilateral agreements with Japan and Korea and NAFTA's automotive chapter, declined from 24 in fiscal year 1994 to 16 in fiscal year 1999, or by about one-third. Moreover, some Commerce staff are responsible for monitoring multiple trade agreements, in addition

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to having other trade responsibilities, and may not be able to routinely monitor all of the trade agreements for which they are responsible. For example, the Commerce official responsible for monitoring several insurance agreements with Japan also covers insurance matters in other major markets, such as China, as well as several multilateral agreements on financial services.

**Figure 8: Authorized and Actual Staffing in the International Trade Administration's Trade Development (Industry) Division, Fiscal Years 1992-99**



Legend  
FTE = Full time equivalent  
Source: Commerce Department data.

This loss of resources has been debilitating for country desks and has meant that some issues brought to the agency's attention are not addressed fully or quickly. For example, two cases involving Japanese government

procurement are not being worked on full-time because of a lack of staff with appropriate expertise. Commerce is also less able to support USTR in its enforcement work. For example, the Commerce staff person assigned to support USTR in the customs area is also working on WTO accessions, the preshipment inspection agreement, and a dispute with Mexico over artificially high duty assessments. Commerce requested 20 additional staff positions in its fiscal year 2000 budget proposal for the Market Access and Compliance division, but Congress did not fund 12 of them.

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## **Agriculture's Tight Budgets Resulted in Decreasing Staff Levels and Cuts in Travel, Training, and Equipment**

Agriculture plays an important role in trade agreement monitoring and enforcement. It routinely examines notifications made under WTO and NAFTA provisions on agriculture, analyzes trade trends, and identifies potential compliance problems. In cases such as Russia's threatened ban on U.S. poultry, Agriculture was instrumental in analyzing trade and food safety issues and supporting policymakers at Agriculture and other departments. Agriculture also works with USTR on formal dispute settlement cases. It provided extensive support in WTO cases on the European Union's ban on hormone-treated beef and Japanese testing requirements for individual varieties of fruit.

Most of Agriculture's trade responsibilities are handled by the Foreign Agricultural Service. The Foreign Agricultural Service's trade agreement monitoring activities are part of its "market access" program area.<sup>3</sup> The staff resources devoted to this program area are shown in figure 9.

Over the last 5 years, the Foreign Agricultural Service has faced flat staff levels and operating budgets that did not completely cover rising salary costs. In fiscal year 1999, 50 vacant positions were eliminated across the agency, and agency officials expect to eliminate about 30 more positions to help absorb budget cuts for fiscal year 2000. Agency officials said the cuts

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<sup>3</sup>Under the market access program area, the Foreign Agricultural Service initiates, directs, and coordinates the Agriculture Department's formulation of trade policies and programs with the goal of maintaining and expanding world markets for U.S. agricultural products. This program area should not be confused with the Market Access Program, which is funded by Agriculture's Commodity Credit Corporation to help finance the overseas marketing activities of various groups, including private companies that qualify as small businesses under the Small Business Act (The 1996 Farm Act, P.L. 104-127). The Foreign Agricultural Service funds the salaries and administrative expenses for the Market Access Program, but the Commodity Credit Corporation receives funds for the program under separate budget authority (7 C.F.R. 2.16 and 7 U.S.C. 5641).

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**Appendix IV  
Staffing at Three Key Agencies Responsible  
for Trade Agreement Monitoring and  
Enforcement**

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in their operating budget will force them to close several overseas offices, cut back the agency's performance of certain activities, and further reduce the funds spent on travel, training, and equipment. The agency currently faces increased responsibilities for WTO negotiations on agriculture, and officials said they requested additional staff resources in fiscal year 2001 to undertake this task.

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**Figure 9: Foreign Agricultural Service Staff Years Allocated to Market Access Program Area, Fiscal Years 1995-2000**

250 Staff years



<sup>a</sup>1999 and 2000 are estimates.

Note: Disparities in staff year data between fiscal years 1995 and 1998 are due in part to changes in the way the Foreign Agricultural Service defined its various program areas for the 1993 Government Performance and Results Act and estimated program area staff allocations. Since fiscal year 1999, the definition of the market access program area has remained relatively unchanged.

Source: Foreign Agricultural Service data.

About 10 percent of the Foreign Agricultural Service's foreign service staff rotate to new positions within the agency each year, with implications for trade agreement monitoring and enforcement. Some officials said that building relationships with a constantly changing workforce can be difficult, and noted that it takes staff about a year to come up to speed on their newly assigned areas. On the other hand, others felt that the agency's overall expertise is enhanced as a result of staff rotation.

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# Objectives, Scope, and Methodology

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The Chairman of the House Committee on Ways and Means asked us to (1) identify the federal structure for monitoring and enforcing trade agreements; (2) describe the increasing complexity of the federal monitoring and enforcement task and key activities that federal agencies must perform; and (3) assess whether the Office of the U.S. Trade Representative, the Department of Commerce, and the Department of Agriculture have the capacity to handle their monitoring and enforcement workload, that is, whether their staff resources and support mechanisms enable them to perform needed monitoring and enforcement activities.

To identify the federal structure for trade agreement monitoring and enforcement, we first reviewed the relevant legal authorities to determine the extent to which there is a legal framework for this function. We also reviewed documentation and interviewed officials at the National Economic Council and six key agencies identified by statute as most responsible for administering trade policy: USTR and the Departments of Agriculture, Commerce, Labor, State, and the Treasury. We obtained information from officials at these agencies on their specific monitoring and enforcement responsibilities, their agency's structure for conducting the activities, and their procedures for coordinating with other trade agencies.

In order to obtain more detailed information about the federal government's monitoring and enforcement activities, we first selected three offices within each of USTR, Commerce, and Agriculture as units of analysis. At Commerce and Agriculture, we chose units that perform either a coordinating function or represent a geographic location or a commodity or industry. At USTR, we selected the unit responsible for enforcement, as well as the unit that handles WTO issues and a geographic unit. The units are listed in table 4.

**Table 4: Agencies and Units Selected by GAO for Detailed Analysis**

<b>Agency</b>	<b>Unit</b>	<b>Unit's orientation</b>
<b>U.S. Trade Representative</b>		
	• Monitoring and Enforcement Unit	Coordination of monitoring and enforcement
	• Office of Japan	Geographic
	• Office of WTO and Multilateral Affairs	WTO issues
<b>Department of Commerce</b>		
	• Trade Compliance Center	Coordination of monitoring
	• Office of Latin America/Caribbean	Geographic
	• Office of Automotive Affairs	Industry issues
<b>Department of Agriculture</b>		
	• Multilateral Trade Negotiations Division	Coordination of agriculture trade policy
	• Europe, Africa, and Middle East Division	Geographic
	• Dairy, Livestock, and Poultry Division	Commodity issues

Source: GAO analysis.

To describe the increasing complexity of the federal monitoring and enforcement task and key activities that federal agencies must perform, we reviewed agency records and conducted structured interviews with both managers and staff from our selected units. We asked them to discuss their monitoring and enforcement activities, how they set goals and priorities, how they allocate resources and coordinate with other government units, and how they interact with the private sector, among other topics. In addition, we conducted structured interviews with experts in trade policy to gain their perspective on monitoring and enforcement issues.

To assess whether USTR, Commerce, and Agriculture have the capacity to handle their current and future monitoring and enforcement workload, we asked the managers from each of our selected units to choose examples of trade agreement compliance issues that they believed were representative of their unit's monitoring or enforcement activities (see table 5 for the list of examples). We then conducted structured interviews with staff

responsible for managing the example. In addition, we interviewed knowledgeable private sector representatives affected by the example to gain their perspectives on how the government responded to the issue. We also reviewed budget, planning, and other documents from each agency to contrast their recent resource allocations with their anticipated future workload.

**Table 5: Representative Monitoring or Enforcement Examples Selected by Government Units**

<b>Unit</b>	<b>Unit-selected example</b>	<b>Nature of issue</b>
<b>U.S. Trade Representative</b>		
Monitoring and Enforcement Unit	<ul style="list-style-type: none"> <li>• Japan distilled spirits</li> <li>• WTO TRIPS Agreement</li> </ul>	<ul style="list-style-type: none"> <li>National treatment and taxation</li> <li>Intellectual property</li> </ul>
Office of Japan	<ul style="list-style-type: none"> <li>• National Police telecommunications</li> <li>• Japan varietal testing</li> </ul>	<ul style="list-style-type: none"> <li>Government procurement</li> <li>Plant health measures affecting U.S. fruit exports</li> </ul>
Office of WTO and Multilateral Affairs	<ul style="list-style-type: none"> <li>• Customs valuation</li> <li>• WTO Subsidies Agreement</li> </ul>	<ul style="list-style-type: none"> <li>Tariff administration</li> <li>Government subsidies</li> </ul>
<b>Commerce</b>		
Trade Compliance Center	<ul style="list-style-type: none"> <li>• Korea washing machines</li> <li>• Korea Airport Construction Authority</li> </ul>	<ul style="list-style-type: none"> <li>Technical barriers to trade</li> <li>Government procurement</li> </ul>
Office of Latin America and the Caribbean	<ul style="list-style-type: none"> <li>• Ecuador Dealer's Act</li> <li>• Argentina exclusive marketing rights</li> </ul>	<ul style="list-style-type: none"> <li>National treatment</li> <li>Intellectual property</li> </ul>
Office of Automotive Affairs	<ul style="list-style-type: none"> <li>• Mechanic certification under the U.S.-Japan Auto Agreement</li> <li>• Korea Auto Agreement</li> </ul>	<ul style="list-style-type: none"> <li>Nontariff trade barrier</li> <li>Agreement implementation</li> </ul>
<b>Agriculture</b>		
Multilateral Trade Negotiations Division	<ul style="list-style-type: none"> <li>• Philippine pork and poultry</li> <li>• Switzerland animal welfare regulations</li> </ul>	<ul style="list-style-type: none"> <li>Tariff rate quota</li> <li>Tariff rate quota and animal health</li> </ul>
Europe, Africa, and Middle East Division	<ul style="list-style-type: none"> <li>• EU veterinary equivalency</li> <li>• EU Canned Fruit Agreement</li> </ul>	<ul style="list-style-type: none"> <li>Standards</li> <li>Government subsidies</li> </ul>
Dairy, Livestock, and Poultry Division	<ul style="list-style-type: none"> <li>• Russian poultry ban</li> <li>• Korea Beef Agreement</li> </ul>	<ul style="list-style-type: none"> <li>Market access</li> <li>Tariff rate quota</li> </ul>

Legend

EU = European Union

TRIPS = Trade-related Intellectual Property Rights

Source: GAO analysis.

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**Appendix V**  
**Objectives, Scope, and Methodology**

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We did our work from June 1998 through February 2000 in accordance with generally accepted government auditing standards.



# Comments From the Office of the U.S. Trade Representative

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

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

February 22, 2000

Ms. Susan S. Westin  
Associate Director  
International Relations and Trade Issues  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Ms. Westin:

Thank you for this opportunity to submit comments for the Office of the U.S. Trade Representative on the draft GAO report entitled *Strategy Needed to Better Monitor and Enforce Trade Agreements*. As the draft report acknowledges on page 16, increases in the number of trade agreements and trading partners, and the increasing complexity of topics covered by trade agreements, have made the task of monitoring and enforcing such agreements much more challenging for federal agencies in recent years.

For that reason, the President's budget for FY 2001 proposes to increase by \$22 million the resources of the following agencies that monitor and enforce our trading partners' compliance with trade agreements: the Departments of Commerce, State and Agriculture, and the Office of the U.S. Trade Representative. Under this budget initiative, more staff would be added to trade agreement monitoring and enforcement activities, including implementation of U.S. trade laws. The planning for this initiative was coordinated by the National Economic Council, which led interagency discussions aimed at enhancing interagency coordination in this area, and increasing funding to bolster expertise in all four agencies in areas covered by trade agreements and trade laws.

We agree that to improve U.S. capacity to monitor and enforce trade agreements, we must employ an integrated approach -- as the Administration has done in developing its FY 2001 budget initiative -- rather than having each agency address its capacity in this area independently. We will continue to work together to assess the current and future workload and the resources needed to address it. As you correctly conclude on page 16, "the size and complexity of the monitoring and enforcement workload is expected to continue growing."

See comment 1.

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**Appendix VI  
Comments From the Office of the U.S. Trade  
Representative**

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- 2 -

See comment 2.

We believe that your report does not adequately recognize the extent to which USTR has engaged in joint strategic planning related to monitoring and enforcement and how the process of re-examination of USTR's mission, precipitated by the Government Performance and Results Act (GPRA), affected USTR's allocation of resources to this effort. USTR's strategic plan (which was provided to GAO during the course of its audit), states that in the process of drafting the strategic plan USTR sought comments for all stakeholders including the 18 agencies that make up the Trade Policy Staff Committee. In addition, USTR requested the plans of other relevant agencies and either met with those agencies or wrote them with suggestions on the trade portions of their plans. USTR sent its draft plan to all members of the Trade Policy Staff Committee for comment and clearance; and USTR commented on the strategic plans from the Departments of Agriculture, Commerce, Justice, State and Treasury, and the Environmental Protection Agency. In our consultations with the State Department, we proposed a strategy for better enforcement of agreements overseas by training foreign service officers and by targeting certain overseas posts. The FY 2001 budget initiative includes a proposal for that purpose.

See comment 3.

We appreciate that the broad scope of your study -- focusing on nine offices in three agencies -- required some level of generality in discussing agency views. For example, on page 6 of the report you indicate that officials at all three agencies told you that steadily declining staff levels in recent years had affected monitoring and enforcement activities. However, since USTR had added ten new positions for monitoring and enforcement in FY 1998, and increased its Japan office from three to five staff, USTR was not referring to its own declining staff levels. Rather, USTR was expressing concern about the decline or reassignment of staff at other agencies that provide support to USTR in its monitoring and enforcement activities. For example, there are fewer lawyers at the Department of Agriculture available now to assist with WTO litigation in agricultural disputes; and the Department of Commerce shifted staff away from the monitoring work of some WTO Committees which Commerce had previously staffed. These concerns were raised in the context of the NEC-led budget discussions, and they are addressed in the FY 2001 budget initiative.

See comment 4.

The report also appears to underemphasize some significant aspects of our monitoring activities. On page 21, the report suggests that our primary activity is "to identify important trade agreement compliance problems rather than routinely monitor other countries' compliance with all aspects of trade agreements." In fact, we spend a considerable amount of time engaged in "routine" monitoring of both bilateral and multilateral agreements. Many of our bilateral trade agreements, particularly our agreements with Japan, provide for regular reviews, including meetings with the foreign government to assess progress toward fulfilling the obligations and obtaining the objectives of the agreement.

Moreover, for every WTO agreement there is a WTO Committee, in which we participate, that oversees the operation of that agreement, collecting and examining countries' notifications on their trade regimes, and meeting semi-annually, or more often, to consider implementation of the

**Appendix VI  
Comments From the Office of the U.S. Trade  
Representative**

- 3 -

agreement. For example, the WTO Committee on Agriculture has reviewed more than 250 notifications detailing the implementation of WTO members' market access commitments, and compliance with their export subsidy and domestic support commitments. Through these activities, the United States often learns about non-compliance, including from other WTO members who also are monitoring compliance. In addition, we participate actively in the work of the WTO Trade Policy Review Body, which examines national trade policies of WTO members on a schedule designed to cover all WTO members at least once every six years. Thus, while we are constantly reviewing problems brought to our attention by companies, workers, and elected officials to target non-compliance where it is causing a specific commercial problem for U.S. interests, we also routinely monitor implementation of all our trade agreements to help prevent such commercial problems from arising in the first place.

In that regard, we would like to emphasize that the purpose of our active program of monitoring and enforcement is to ensure that U.S. businesses, workers and farmers capitalize fully on the rights and opportunities created by our trade agreements. USTR's objective is not to bring numerous enforcement actions, but rather is to resolve government-to-government disputes early with meaningful results and, by having a record of vigorous enforcement, to create a strong deterrent to foreign trade barriers. At the same time, the Departments of Agriculture, Commerce, and State are engaged in efforts on-the-ground in foreign countries, aimed at resolving specific commercial problems. As the complaints filed through the Department of Commerce's Website so far indicate, not every commercial problem encountered in international trade involves a foreign government's non-compliance with a trade agreement. But resolution of those commercial problems is as important -- especially for small and medium-sized businesses -- as resolution of disputes involving trade agreement obligations. The discussion on page 62 of USTR's role fails to recognize this distinction between trade agreement monitoring and trade facilitation, and the respective roles of agencies in this regard.

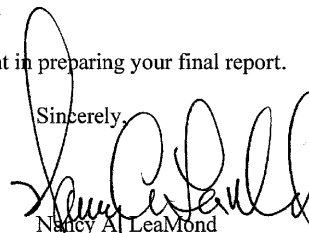
See comment 5.

Finally, we regret that we were unable to obtain from you any information about the suggestion made by someone in the private sector that "USTR's limited staff has prevented it from initiating certain dispute settlement cases that private sector officials thought should go forward." (Page 26.) Limited resources have not precluded USTR from pursuing any case to date for which we have determined, through an interagency review, that the United States has a well-documented claim which would be likely to prevail on the merits, and for which a dispute settlement proceeding would be the best avenue for redress.

See comment 6.

I hope you will take these comments into account in preparing your final report.

Sincerely,



Nancy A. Leamond  
Chief of Staff

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The following are GAO's comments on the Office of the U.S. Trade Representative's letter dated February 22, 2000.

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## GAO Comments

1. Our report has been revised to include information on the President's recent compliance initiative, which is included in the President's fiscal year 2001 budget request. However, as noted on page 27, we do not believe this initiative satisfies our recommendation.
2. We revised our report to reflect this point. However, as discussed on page 27, we continue to believe that our recommendation is appropriate.
3. We respond to this comment on page 28.
4. We revised the report to clarify that federal agencies perform routine monitoring of certain trade agreements, but our evidence shows that some trade agreements receive little or no monitoring. We also added language to show that many trade experts and private sector representatives we spoke with considered this to be a sensible approach, given the increased number of U.S. trade agreements and the resources available to monitor them.
5. We contacted USTR to clarify its concerns on this point. USTR was commenting on our description of a compliance problem in which a U.S. company tried unsuccessfully for over a year to get USTR to address its concerns about a possible trade agreement violation by Korea that was blocking the company's exports (see p. 53). After the company persuaded one of its Senators to ask Commerce about the issue at a congressional trade hearing, Commerce investigated the problem and satisfactorily resolved it within a month. In its comment, USTR draws a distinction between USTR's role in monitoring trade agreements and Commerce's role in helping U.S. businesses address problems that are not related to trade agreements. In explaining USTR's comment, a USTR official told us USTR believes the example is an unfair criticism of USTR because the issue was more appropriately handled by Commerce. However, because the issue involved a potential trade agreement violation, we believe that USTR should have attempted to understand and address the company's concerns.
6. In the report, we clarified that the statement in question reflects the beliefs of the private sector source that made the comment. This

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**Appendix VI**  
**Comments From the Office of the U.S. Trade**  
**Representative**

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example is included in the report to show that some private sector representatives we spoke with had concerns about whether USTR's resources implicitly limit the number of dispute settlement cases that USTR can undertake at a given time. We understand that USTR and private sector representatives may disagree about whether particular compliance problems should be handled through dispute settlement proceedings, and we did not attempt to assess the merits of any potential dispute settlement case.

# Comments From the Department of Commerce

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



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

FEB 23 2000

Ms. Susan S. Westin  
Associate Director  
International Relations and Trade Issues  
United States General Accounting Office  
Washington, D.C. 20548

Dear Ms. Westin:

Thank you for the opportunity to provide comments on the draft GAO report, *Strategy Needed to Better Monitor and Enforce Trade Agreements*. As with your earlier report on *Improvements Needed to Track and Archive Trade Agreements*, we find that your assessment is helpful and we plan to implement your recommendation to better develop our strategy for managing the compliance workload.

As you correctly noted in your report, the Department's ability to monitor and enforce compliance with trade agreements has been negatively affected by declining resources (pp. 6 and 22). Since FY1995, our Market Access and Compliance (MAC) unit received total appropriations of roughly \$16 million less than requested by the President. During the FY2000 appropriations process, members of Congress wrote to appropriators asking them to support the President's request to increase MAC's resources. Following that action, Congress last year did provide MAC with its first real budget increase in seven years, raising the unit's budget by \$2 million to a total of \$19,755,000. This increase enabled MAC to put limited new resources in its China, Japan, European Union, Africa and Middle East units.

You recommended on page 34 of your report that USTR, Commerce and Agriculture, in consultation with the relevant agencies, should assess, among other things, the human and capital skills needed and available to monitor and enforce U.S. trade agreements now and in the future, and to determine how any gaps can be addressed. Prior to receiving your draft report, the National Economic Council coordinated such an assessment and the resources needed to do our job properly are reflected in the President's compliance initiative contained in his FY2001 budget request. It asks for \$22 million for compliance initiatives at Commerce, State, Agriculture and USTR since, as you note, "The size and complexity of the monitoring and enforcement workload is expected to continue growing." (p. 16). The President's request would fund much important compliance work, including legal, country desk and additional subsidies and dumping analysis and it is an indication of the importance the President attaches to the enforcement issue.

The report refers to the adequacy of the government's ability to do legal analysis on compliance issues. We agree that legal analysis is fundamental to our compliance efforts and any enhanced compliance efforts might require additional legal resources.



See comment 1.

**Appendix VII  
Comments From the Department of  
Commerce**

See comment 2.

There are some points in your draft report we want to clarify. On page 21, the report notes that agencies, given their resource shortages, rely heavily on the private sector to identify compliance problems. While there is much truth to this point, it does not adequately capture the efforts made by Commerce and other agencies to reach out to the private sector and labor groups, to monitor Embassy reporting, the press and other sources, to identify potential agreement violations. In addition, MAC desks, the Trade Compliance Center (TCC), Import Administration, Trade Development and the Office of General Counsel offices have all undertaken reviews of bilateral and multilateral agreements, including WTO accession agreements, in an attempt to actively monitor compliance and not simply wait for complaints from business.

See comment 3.

On page 31, reference is made to our efforts to coordinate our planning for compliance. In addition to the joint memo to the National Economic Council, cited in your report, that defined MAC and USTR roles, our staff also routinely discuss with counterpart staff at USTR our cases and priorities. MAC's TCC also prepares a monthly memo for USTR on issues it is currently examining and progress that has been made to date. We will work to improve our interagency coordination efforts under the leadership of USTR's Trade Policy Staff Committee, especially the Subcommittees on Dispute Settlement, Trade Related Intellectual Property Rights and Section 301, where much discussion of compliance issues and strategy already takes place.

See comment 4.

On page 38, we suggest adding, "The International Trade Administration also receives significant support from other offices in Commerce in its compliance efforts, in particular the considerable legal expertise from the Office of the General Counsel."

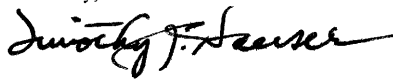
See comment 5.

In the "Setting Priorities" section beginning on page 49 of your report, you note that most compliance work is focused on issues that affect a high dollar value of U.S. trade. While that is true, this does not adequately recognize the work Commerce does to assist smaller and medium sized firms, which by definition, generally do not involve large dollar amounts. Indeed, one of our goals is to help those firms that cannot afford a large Washington presence. For example, MAC's expanded website [www.mac.doc.gov/tcc](http://www.mac.doc.gov/tcc) will help such firms access details on trade agreements compliance and market access information.

We have provided you by fax on February 11 the actual staff levels for the MAC unit which you requested.

Again, thank you for your report and for giving us an opportunity to comment on its conclusions. We hope that you will agree with our suggested revisions and that the final report will take account of our comments. We look forward to working with you to improve our ability to monitor and enforce trade agreements.

Sincerely,

  
for Ambassador David L. Aaron

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The following is GAO's comments on the Department of Commerce's letter dated February 23, 2000.

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## GAO Comments

1. Our report has been revised to include information on the President's recent compliance initiative, which is included in the President's fiscal year 2001 budget request. However, as noted on page 27, we do not believe this initiative satisfies our recommendation.
2. We revised our report to describe more fully the range of monitoring and enforcement activities undertaken by federal agencies, as well as the nature of support provided by the private sector.
3. We noted in our report that Commerce states its staff routinely discuss compliance problems and resolution strategies with their USTR counterparts.
4. Our report already stated our observation that the government's ability to do legal analysis of compliance problems is strong. We revised our report to specifically note that Commerce's Office of General Counsel provides legal support to the International Trade Administration.
5. Although we already discussed the Commerce Trade Compliance Center's efforts to assist small- and medium-sized companies through an internet site in an earlier section of the report, we modified our report to reflect the priority given by the Trade Compliance Center in this area. In addition, we have previously commented on the Commerce internet site in *International Trade: Improvements Needed to Track and Archive Trade Agreements* (GAO/NSIAD-00-24, Dec. 14, 1999), which is also noted in the report.



# Comments From the Department of Agriculture

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



United States  
Department of  
Agriculture

Farm and Foreign  
Agricultural  
Services

Foreign  
Agricultural  
Service

1400 Independence  
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Washington, DC  
20250-1022

Ms. Susan Westin  
Associate Director  
International Relations and Trade Issues  
General Accounting Office  
441 G Street, N.W., Room 4482  
Washington, D.C. 20548

Dear Ms. Westin:

Thank you for the opportunity to provide comments on the General Accounting Office (GAO) draft report NSIAD-00-76, "International Trade: Strategy Needed to Better Monitor and Enforce Trade Agreements". In the report, GAO assesses the capacity and efforts of U.S. agencies to monitor and enforce trade agreements. Particular attention was paid to determining whether the Office of the U.S. Trade Representative (USTR), the Department of Commerce, and the Department of Agriculture (USDA) have the capacity to handle their monitoring and enforcement responsibilities. The study concludes that although these agencies have taken steps to improve their monitoring and enforcement efforts, certain capacity weaknesses have limited their ability to handle the growing monitoring and enforcement workload. The GAO study recommends that all three agencies jointly develop a strategy to better manage this growing workload, including an assessment of the resources needed and available to perform this function.

In general, we support the conclusions of this report and believe that it provides useful insights into the monitoring and enforcement challenges that confront the agencies charged with this important responsibility in an era of reduced budgetary resources. In particular, we note the GAO observation that steadily declining staff resources have adversely affected the relevant agencies' monitoring and enforcement efforts. These resource constraints present a difficult challenge for USDA's Foreign Agricultural Service (FAS) in meeting its monitoring and enforcement objectives. However, FAS's focus on monitoring trade agreements has been evolving rapidly, and we have already taken numerous steps to ensure that our current resources are more efficiently utilized and better targeted at those areas where monitoring and enforcement are most needed.

For example, over the past three years the management of our International Trade Policy program area has undertaken a major restructuring effort in order to increase coordination of monitoring and enforcement activities among our multilateral and bilateral trade policy divisions. This effort has allowed us to more effectively use a team approach in carrying out our monitoring responsibilities and to take advantage of the important synergies that exist across traditional divisional boundaries. As a result, our agency has undertaken a coordinated and more effective effort in moving several outstanding trade issues forward to resolution. Important examples of this work include better market access for U.S. pork



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**Ms. Susan Westin**

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and poultry into the Philippines, an effective veterinary equivalency agreement with the EU, and development of a strong WTO dispute settlement case against Korea's restrictions on U.S. beef imports.

Despite these important changes, FAS continues to carry out its monitoring and enforcement responsibilities in an environment of straight-lined budgets and increased staff workload. This has severely hampered our efforts to monitor and enforce foreign compliance with international trade agreements. For example, because of budget constraints FAS has been forced to close down a number of posts overseas. This has resulted in substantially greater monitoring responsibilities being taken on by our Washington-based staff, and additional strain on our travel budgets due to increased international travel for Washington-based staff. Lack of experienced field personnel has affected our monitoring and enforcement capability because of the difficulty in performing additional on-the-ground investigative or follow-up work. Reduced budgets make it difficult to purchase necessary data or other market intelligence that are essential for timely analysis and response to trade barriers and policies adverse to U.S. export interests. Finally, the technical agencies that support FAS monitoring and enforcement efforts, both in USDA as well as within other Federal departments, also face severe budget pressures or lack the mandate to work on international trade issues. This makes it increasingly difficult to monitor the more complex forms of import restrictions, such as those based on food safety regulations or product standards.

In response to this situation, the President's budget for fiscal year 2001 proposes increased funding for FAS to support additional staff to work on market access, compliance and negotiation activities. We will be working very hard with Congress during the appropriations process to ensure favorable consideration of this request.

We support GAO's recommendation that USDA work closely with USTR and the Department of Commerce to develop a coordinated monitoring strategy and, in fact, we have been actively taking steps towards improving this coordination. As you know, USDA has already instituted a strategic decision making process, similar to the inter-agency Trade Policy Staff Committee (TPSC), for effectively coordinating SPS and other related trade policy issues and which includes input from other government agencies. We have also consulted with USTR on using the existing TPSC structure to better coordinate our monitoring efforts. Other examples of inter-agency coordination include recent work with USTR to formulate a policy with respect to the growing number of cases being considered for adjudication before the WTO Dispute Settlement Body (DSB), as well as work with the Commerce Department to establish links between departmental websites that will facilitate internet access to information on trade agreements.

See comment 1.

**Ms. Susan Westin**

**3**

We believe that these efforts, combined with a stronger inter-agency and Geneva-based coordination process, will ensure an effective strategy of prioritizing the most appropriate examples of non-compliance to bring before the WTO in support of broad-based U.S. interests. In conclusion, we intend to work with USTR to improve interagency coordinating efforts through existing structures.

Again, we appreciate the opportunity to provide general comments on this important subject, and hope that your final report will take these comments into account.

Sincerely,



Timothy J. Galvin  
Administrator

Attachment

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The following is GAO's comment on the Department of Agriculture's letter that we received on February 24, 2000.

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**GAO Comment**

1. Our report has been revised to include information on the President's recent compliance initiative, which is included in the President's fiscal year 2001 budget request. However, as noted on page 27, we do not believe this initiative satisfies our recommendation.

# GAO Contacts and Staff Acknowledgments

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## GAO Contacts

Elizabeth Sirois, (202) 512-8989  
Shirley Brothwell, (202) 512-3865

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## Acknowledgments

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