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U.S. Trade and Investment Policy

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Executive Summary

The growth of global trade and investment has brought significant benefits to the United States and to the rest of the world. Freer trade and investment, facilitated by rules the United States led in negotiating and implementing, have alleviated poverty, raised average standards of living, and discouraged conflict.

But over the past two decades, American support for trade liberalization has waned. Today, the United States lacks an ambitious trade policy and has not kept pace with other countries in opening new markets abroad, especially in the fast-growing economies of Asia and Latin America that are now major engines of global growth.

If the United States is to prosper in today's global economy, it must enhance its ability to attract the investment and jobs linked to producing goods and services for these large and prospering markets. In short, the United States must become a great trading nation.

The primary reason for the stalling of U.S. trade policy is the serious employment and income pressures so many Americans face. Americans recognize the benefits of trade in terms of lower-priced and higher quality consumer products and acknowledge the benefits for poorer countries trading with the United States. But these gains have not been enough to maintain public support for further trade opening.

Americans have understandably become more wary of international competition, both because wages over the past decade have stagnated for almost all Americans and because the Great Recession destroyed millions of jobs. This wariness accords with evidence that at least some of these wage pressures stem from trade and other globalization forces. There are challenges on many fronts—including education, infrastructure, government debts, regulation, and immigration policies—but U.S. trade and investment strategies are a critical part of the equation. Even with the recent strong growth in exports, the United States remains an export underperformer. Its share of worldwide foreign direct investment has also fallen sharply compared with other advanced economies. Creation of high-wage U.S. jobs by multinational companies, after a strong decade in the 1990s, has stalled, and these companies have shed nearly three million jobs over the past decade.

Unless the U.S. government can devise and implement trade and investment policies that benefit more Americans by sparking greater investment and jobs in the United States linked to the global economy, it will be impossible to rebuild public support for trade policy. This report calls for the administration and Congress to adopt a pro-America trade policy that brings to more Americans more of the benefits of global engagement, within the framework of a strengthened, rules-based trading system.

The Task Force recommends a new trade and investment strategy

based on **seven pillars**:

- An ambitious trade-negotiations agenda that opens markets for the most competitive U.S.-produced goods and services, especially the biggest and fastest-growing emerging markets
- A **National Investment Initiative** that would coordinate policies on inward and outbound investment to encourage the location in the United States of high-wage, high-productivity jobs
- A **robust and strategic trade enforcement effort**, with the U.S. government playing a more proactive role in ensuring that U.S. companies and workers are not harmed by trade agreement violations
- Greater efforts to **promote exports** through more competitive export financing and a more active government role in supporting U.S. overseas sales
- Expanded use of trade to foster development in the world's poorest countries
- A comprehensive worker adjustment and retraining policy
- A new deal with Congress to give the president a mandate to negotiate trade-opening agreements with an assurance of timely congressional action.

The Task Force believes strongly that Americans, and both parties in Congress, can support such an approach. The report lays out a strategy to enable the United States to engage more successfully in international markets in a way that brings the benefits of trade and investment to more Americans.

The United States still has many economic strengths, and a new set of trade and investment policies built on those strengths will pay enormous dividends.

Introduction

Yet Americans today are deeply ambivalent about the value of continued trade opening and unsure whether the country should remain at the forefront of trade liberalization. Although the benefits of an active trade policy are well understood, opening of trade in recent years has not done enough to deliver broad-based job and income growth to Americans.

Congress too has been split, lawmakers either refusing to approve additional trade-opening agreements or passing such deals by the narrowest of majorities. As a result, the U.S. government has been unable to carry out an ambitious trade and investment policy that responds to the rapid changes taking place in the global economy. For too long the United States has been on the sidelines as other countries have found new ways to deepen their commercial relationships. U.S. trade policy lacks both direction and momentum at a time when Americans are facing the most pressing economic challenges in generations.

Nor has U.S. foreign direct investment (FDI), another important source of job creation and innovation, kept pace with that of other advanced economies. Although the U.S. share of global FDI stock rose sharply in the 1990s—and the United States remains the most attractive investment location in the world—that share has fallen sharply over the past decade.

In a world where most trade takes place among different parts of multinational companies, the United States must become more adept at exploiting its advantages in the global supply chain. For instance, the U.S. business environment has long encouraged innovation in the production of goods, the delivery of services, and the logistics of international commerce. Washington should be actively involved in shaping and enforcing trade rules that play to U.S. strengths and ensure that those advantages are not undermined by foreign government subsidies, technology transfer requirements, or inadequate protection of intellectual property.

Revitalizing Trade Negotiations

If the United States is to capture the benefits from a growing world economy for its citizens, and begin to reverse the job loss and income stagnation of the past decade, a new trade negotiating strategy that plays to American strengths is needed. The rapid growth of emerging markets presents an enormous, and still largely untapped, opportunity for gains in exports of U.S.-produced goods and services.

Attracting and Retaining Investment

The policy challenge facing the United States today is not just to create jobs of any kind but instead to create well-paying jobs that will reverse the falling earnings that many Americans have experienced over the past decade. Well-paying jobs tend to be those that boost worker productivity through R&D, capital investment, and international trade.

Over much of the twentieth century, multinational companies tended to create these sorts of jobs in the United States

Attracting more U.S. investment from multinational companies could help expand U.S. trade engagement in ways that benefit more American workers. But the record of the past decade is discouraging.

U.S.-based companies that are part of multinational firms account for fewer than 1 percent of all companies. But in 2008 these firms accounted for 22.4 percent of all private-sector jobs, undertook 39.3 percent of all U.S. capital investment, shipped 61.8 percent of all U.S. goods exports, brought in 59.9 percent of all goods imports, and conducted a remarkable 84.6 percent of all U.S. private-sector R&D. For the 26.7 million employees of these multinational companies (MNCs) in 2008, this meant an average annual compensation of \$66,733—about 25 percent above the economy-wide average. U.S. affiliates of foreign multinationals have long had substantially higher unionization rates than the rest of the U.S. private sector.

In short, multinational companies have historically created millions of U.S. jobs based on knowledge creation, capital investment, and international trade—all activities associated with higher compensation and rising overall U.S. productivity. To reverse the income stagnation and job loss of the past decade, the United States needs to create millions of precisely these types of “good jobs at good wages.” But the recent evidence is not encouraging.

Bolstering Trade Enforcement

Inadequate enforcement of trade rules can have lasting detrimental consequences for U.S.-based production and the U.S. workforce. The United States needs to become a more desirable place to locate production of goods and services. But if overseas competitors are playing by a different set of rules, that goal is extremely difficult to realize. If foreign competitors are heavily subsidized through government intervention, for example, U.S. companies may simply be unable to find the productivity improvements and cost savings needed to overcome the disadvantage. The result is a loss of otherwise competitive companies and industries in the United States or the relocation of increasing portions of the global supply chain outside the United States.

Effective trade enforcement is vital to restoring public confidence. One reason for the growing public skepticism toward trade is the widespread

perception that some other countries are not playing by the rules. Unless Americans are persuaded that the rules of the trade game are not tilted against them, it will be nearly impossible to find public support for a more ambitious policy of market opening around the world.

Until the creation of the WTO in 1994, the United States relied primarily on its domestic trade laws and the threat of unilateral trade sanctions as enforcement tools. Most actions were taken as a result of complaints brought by specific U.S. companies whose interests were harmed by restrictions on exports or by import competition. But in the modern era of globally integrated companies and binding dispute settlement, new approaches are needed.

The Task Force believes the United States needs to modernize the way it handles trade enforcement. Enforcement today requires integrating WTO dispute settlement, negotiated resolutions, and more effective use of trade laws into a coherent strategy for ensuring that U.S.-based production does not face unfair competitive disadvantages.

Maintaining a system of rules-based global trade requires the capacity, willingness, and desire by the U.S. government to enforce the trade rules.

The Challenge of Enforcement

The good news about the global trading system is that most countries, most of the time, live within the rules. This is no small achievement. The recent deep recession could well have resulted in a spate of protectionist measures in response. Yet the number of new trade-restricting measures has been small, affecting only a tiny fraction of global trade.⁵³

But as global trading relationships have deepened over the past half century, effective enforcement of trade agreements has become increasingly difficult. The earliest GATT agreements, which reduced tariffs, were easy to monitor, though no binding procedures for resolving disputes were in place. The later expansion of the multilateral trading system to cover areas such as intellectual property, subsidies, food and product safety regulations, and government procurement was intended to ensure that rewards would accrue to the workers and companies producing the best products at the lowest prices, rather than to those benefiting from government support or discriminatory regulation. But those trading rules are far more difficult to enforce.

To take just one example, WTO dispute settlement cases were launched in 2004 to determine whether the world's largest aircraft makers, Airbus and Boeing, had received improper subsidies from governments in Europe and the United States. Seven years later, the final decisions have only recently been issued (the answer was yes in both cases, though the subsidy was much larger for Airbus).

The rise of economic competitors in which the state plays a greater role in market competition exacerbates the enforcement problem. WTO rules were written largely by countries in which private or shareholder owned

companies are the primary economic actors. The question of the appropriate role of government has long created trade disputes and was not resolved by the creation of the WTO.

The high-profile trade clashes between the United States and Japan in the 1980s and early 1990s largely concerned Japanese government-directed measures that protected its market from otherwise competitive imports of U.S. autos, auto parts, medical devices, semiconductors, and beef, to name just a few sectors. Many of these practices were not explicitly prohibited, but they nonetheless harmed U.S. companies selling into the Japanese market or competing with Japanese exporters in the United States or in third markets.

Finally, the enforcement challenge has been exacerbated by the growth of truly global companies. U.S. trade enforcement has long been driven by specific companies seeking to remove barriers to exports or block unfairly traded imports. But global companies may be reluctant to pursue either of those remedies, preferring to deal with obstacles through direct investment overseas rather than to fight to expand exports from a U.S. base or protect a domestic market from import competition. This situation requires a more active U.S. government role in choosing and pursuing enforcement priorities than was necessary in the past.

The Waning of Traditional Trade Enforcement Tools

The traditional enforcement tools on which the United States once relied have become either illegal or unviable, or both. Historically, three mechanisms were used:

- negotiations with trading partners, backed by the threat of unilateral trade sanctions if discriminatory practices were not removed;
- the trade remedy laws, which allow companies and workers to petition for import protection if they are harmed by imports that are government subsidized or sold below cost in an effort to gain market share; and
- so-called gray measures, such as voluntary export restraints (VERs), in which the United States pressured trading partners to restrict exports of certain goods.

None of these mechanisms is effective today. In the Uruguay Round negotiations, the United States largely agreed to end unilateral trade sanctions in exchange for the WTO dispute settlement system, in which impartial tribunals can issue binding rulings on violations of WTO rules. U.S. trade remedy laws have become less useful as well. The number of antidumping and countervailing duty (AD/CVD) cases has been dropping steadily over the past decade, despite the deep recession that would normally have triggered an increase in such measures. This decline has come even though changes to rules in recent years have made it easier for U.S. producers to seek tariffs on competitive imports. In August 2010 the Obama administration announced more than a dozen revisions to AD/CVD laws, each aimed at helping U.S. companies win

relief against unfairly traded imports.

The use of antidumping and countervailing duty measures has declined in most advanced economies. In the late 1990s, for instance, between 3.5 percent and 5 percent of all imports into developed countries faced some sort of temporary tariff; by 2007 that figure had fallen in half. In contrast, trade covered by such measures in the fastest growing developing economies—including China, Brazil, Argentina, India, and Turkey—rose from near zero in the mid-1990s to some 4 percent by 2007. Trade law protection for U.S. companies has waned at precisely the time when trade law barriers to U.S. exports are growing in developing countries.

The third traditional enforcement tool, the negotiation of export restraints, was also abolished as a result of the Uruguay Round negotiations in favor of strengthened safeguards provisions to allow countries to deal with import surges. But the United States has generally made only limited use of safeguards, and those actions have nearly all been found to violate WTO rules.⁶⁸ In summary, each of the traditional trade enforcement tools used by the United States is either no longer available or no longer particularly effective. The United States must find new ways to enforce trade rules effectively using a different arsenal of measures.

WTO Dispute Settlement

The creation of the WTO dispute settlement system is one of the most impressive achievements in the history of efforts to build cooperation across borders. For the United States, the new system was **a calculated gamble**. As the world's biggest market, the United States had more power than any other country to get its way in trade disputes by threatening to block imports, and thus had much to lose by foreclosing that option. But, as a country that has largely tried to abide by its trade obligations, the United States had a great deal to gain by creating a legal mechanism that would strongly encourage compliance and permit sanctions against other countries if they failed to uphold their commitments.

Since the system was launched in January 1995, more than four hundred disputes have been initiated. It has been, as the former chairman of the WTO's Appellate Body, James Bacchus, has written, "by far the busiest international dispute settlement system in all of history." The United States alone has been complainant or a respondent in more than two hundred cases, and smaller, developing countries are increasingly bringing more cases as well. And the system has delivered results. **In nearly 90 percent of those cases, a dispute settlement panel or the Appellate Body found that some violation of trade commitments had occurred. In nearly every case, countries have complied with those rulings without facing the trade sanctions that can result from noncompliance.**

The record of U.S. success in WTO cases against China in particular

is encouraging. The United States was cautious in pursuing WTO cases in the years immediately following China's accession, offering China a grace period to achieve full compliance with the rules. Though the United States filed the first ever WTO dispute case against China, it brought only two cases against China in the first five years after China's WTO accession. But since the deadline for China to achieve full compliance with its WTO obligations by December 31, 2006, the United States has become more aggressive in pursuing cases, bringing eleven challenges in Geneva. Despite the generally positive U.S. experience with WTO dispute settlement, however, the system has significant shortcomings, including the following:

- The long time required to bring and resolve cases so that even a favorable ruling may be a pyrrhic victory because the economic damage has already been done. Although the U.S. case against Airbus has been upheld at both the panel and Appellate Body levels, for example, subsidies for Airbus have already helped the company capture half the global market for large civil aircraft.
- Compliance with WTO rulings can be difficult to monitor and assess. Countries often make the smallest changes possible to existing trade practices in order to come into technical compliance with rulings.
- U.S. companies are reluctant to be seen as encouraging or supporting WTO cases, especially against China, fearing that it could lead to retaliatory measures that would harm their existing market access or benefit competitors.⁷²
- The WTO system deals reasonably well with trade violations in specific sectors or industries, but has a harder time dealing with larger systemic problems that can lead to competitive disadvantages. These include national standards of different sorts, some types of government subsidies, IP violations, SOE activity that is motivated by factors other than commercial considerations, and currency manipulation.⁷³
- No negotiating process is currently in place that would allow for changes to the rules in cases where countries believe the panels have wrongly interpreted the Uruguay Round agreements, or where the rules are inadequate to resolve a particular dispute. In the absence of any procedure for updating the agreements, the dispute process is likely to become less and less applicable to the different sorts of trade frictions that will arise in the future.

Although the WTO dispute settlement system has brought many gains to the United States and other countries, the United States needs to find ways to use that process more effectively, and to initiate negotiations that could help improve those procedures.

Recommendations

The United States needs more ambitious and effective trade and investment policies and a more robust enforcement regime as part of a strategy to reestablish strong, broad-based U.S. economic growth in a global economy that has both more opportunities and greater competition than at any time in history. The primary goal of these policies should be to make the United States a more attractive location for the production

of world-competitive goods and services.

Better trade and investment policies are only one part of the necessary response to the broader competitive challenge the United States faces, which is going to require a sustained national effort along multiple fronts. These include improvements in education, investment in infrastructure and research, and policy reforms in areas such as taxation and immigration.

The Task Force therefore recommends a trade and investment strategy based on seven pillars:

- An ambitious trade negotiations agenda aimed at opening markets for the most competitive U.S.-produced goods and services, especially in the biggest and fastest-growing emerging markets
- A National Investment Initiative that would be the new umbrella for policies on inward and outbound investment that encourage the location of higher-wage production and service jobs in the United States
- A more robust and strategic trade enforcement effort, with the U.S. government playing a more proactive role in ensuring that U.S. companies and workers are not harmed by trade agreement violations
- Greater efforts to promote exports through more competitive export financing and a more active government role in supporting U.S. overseas sales
- Expanded use of trade to foster development in the world's poorest countries
- A comprehensive worker adjustment and retraining policy
- A new deal with Congress to give the president authority to negotiate trade-opening agreements.

A National Investment Initiative

Historically, the United States has never concerned itself in a systematic way with attracting and retaining foreign investment. As the world's largest market, it was simply assumed that big companies would make investing in the United States a high priority. That is no longer the case.

Today, given the importance that investment by multinational corporations has historically played in the American economy, especially in creating higher wage employment, the United States needs to be acutely attuned to strengthening itself as an investment location. If current trends continue, smaller contributions to the U.S. economy by less vibrant multinationals are to be expected, translating into less R&D and investment, fewer exports, and ultimately fewer jobs. The Task Force recommends that the Obama administration, with the active support of Congress, launch a National Investment Initiative (NII) that would complement the National Export Initiative. The NII should set a target for increasing investment in the United States, both by domestically headquartered multinational companies and by foreign multinationals. As with the NEI, a variety of policy instruments should be brought to bear to encourage the location of investment in the

United States.

The **National Investment Initiative** should involve action on a variety of fronts, including education, development of infrastructure, encouragement of high-skilled immigration, expanded government support for R&D, and other initiatives that enhance the United States as a primary destination for the location of higher-wage employment. Two issues that stand out in the context of this report are U.S. international tax and trade policies. In addition, there is a set of U.S. policies specific to international investment—national-security reviews of international acquisitions, overall federal government support for inward investment, and bilateral investment treaties—where improvements can be made.

One of the most important policy issues shaping international investment decisions is **taxes**. The Task Force favors reform of the U.S. tax system to encourage the location of job-producing investment in the United States. The **reform should be based on three pillars**: a reduction of the statutory corporate tax rate and measures to simplify the U.S. corporate tax code; the adoption of **a territorial tax system** that would eliminate taxation of foreign-affiliate income of U.S.-based multinationals, bringing the United States in line with other G7 countries; and serious consideration of adopting a value-added tax to improve the competitive position of U.S.-based production. The Task Force recognizes the political difficulty of this last pillar, but the international competitive benefits may be so significant that a VAT should be part of any serious discussion on tax reform.

Fundamental reform of U.S. corporate taxation would raise a number of important practical issues that would need to be addressed to ensure fairness (for example, a transition to territorial taxation would require clearly articulated and enforced rules on transfer pricing). And although broader fiscal reform is beyond the scope of this Task Force, changes to corporate taxation would likely need to be part of a broader solution to the fiscal crisis facing the United States. Despite these challenges, the Task Force believes that making the United States' corporate tax system more competitive should be a top priority of policymakers to support hiring and investment by multinational firms.

Regulations governing cross-border mergers and acquisitions (M&A) should also be improved to facilitate investment. M&A is the predominant way in which foreign multinational companies start their U.S. operations, and FDI is an important share of all U.S. M&A activity.⁹⁵ In recent years, however, the tone and substance of U.S. policy toward inward FDI has arguably become more protectionist.

Some executives are concerned that the **national security reviews** of M&A transactions conducted by the Committee on Foreign Investment in the United States (CFIUS) have become more politicized. This perception results largely from the political pressure that in 2005 led the China National Offshore Oil Corporation (CNOOC) to withdraw its bid for Unocal, and in 2006 caused Dubai Ports World to halt its planned acquisition of some U.S. port facilities. Reviews to the CFIUS process

in the wake of those incidents have improved the process in some ways, though many proposed deals are undergoing longer, in-depth inspections by CFIUS that add to the cost and uncertainty for foreign buyers. The issue is particularly difficult with respect to China, which has shown an increased eagerness to make direct investments in the United States rather than to continue building its portfolio holdings.

Encouraging Chinese investment is difficult because much of its overseas expansion has been through investments in production of commodities, and the United States is not a primary target for that sort of investment. Certain other sectors in which Chinese companies have global ambitions, such as telecommunications, raise particular national security sensitivities for the United States. State-owned companies also account for more than 80 percent of Chinese outward investment, which raises additional issues.

But, despite the difficulties, encouraging increased Chinese investment should be a top U.S. priority. Hard investments in assets are inherently more stable than large-scale purchases of liquid assets like Treasury bills, and are desirable for that reason alone. The history of the U.S. trade conflict with Japan also showed that increased foreign investment helps reduce tensions; as Japanese investment expanded in more states, U.S. politicians acquired a growing stake in maintaining positive trade relations with Japan. A similar development with China would be welcome.

Other executives point to the *Buy American provisions of the 2009 American Recovery and Reinvestment Act* as having sent a negative message. To offset this, the United States should set a more welcoming and optimistic tone. A positive step in this direction was the “Statement by the President on United States Commitment to Open Investment Policy,” issued on June 20, 2011, in which President Obama discussed the many benefits inward investment has brought to the U.S. economy and said, “The United States reaffirms our open investment policy, a commitment to treat all investors in a fair and equitable manner under the law.”

A four-paragraph statement alone, however, is not enough. Greater efforts should be made at the national level to attract foreign investors. The United States has never seen encouraging investment as a national priority; most government initiatives to attract FDI are now carried out at the state and local levels, and the federal government plays a smaller supporting role. U.S. investment promotion effectiveness lags far beyond most other developed countries, and even well behind many developing countries. In a 2009 review of investment promotion efforts by the World Bank, the United States was ranked near the bottom of OECD countries in terms of best practices for attracting foreign investors.⁹⁶ With competition for investment increasing across the globe, the United States must do more to actively market itself as an investment location.

Finally, the United States should continue negotiating better rules for facilitating overseas investment, including bilateral investment treaties

(BITs) and strong investment provisions in bilateral and multilateral trade agreements. The certainty created by investment rules is important not only for U.S. companies seeking to do business abroad, but for foreign companies seeking to operate in the United States. The United States has been engaged in a long, difficult, and contentious internal review of its approach to BIT negotiations, and now it needs to develop and implement a strategy, especially in negotiations with countries with large state-owned sectors.

The Task Force believes that the United States can succeed in attracting additional investment and promoting export growth only in an international economy in which investment is facilitated and safeguarded by mutually negotiated, binding rules. The United States should be a leader in such negotiations.

Strengthening Trade Enforcement

More Proactive Government Role

The U.S. government should become more proactive in initiating WTO cases or pursuing other remedies. The Task Force believes that enforcement needs to become more of a government function and less private sector-led, primarily because the interests of U.S. companies are increasingly conflicted.

Enforcement actions initiated by the government could help shield companies that are being harmed by trade violations but fear retaliation, but the government should be prepared to initiate certain cases even in the face of corporate opposition. Although the majority of trade actions are still likely to be initiated by U.S. companies or labor unions, the U.S. government is responsible for broader U.S. economic interests and should be aggressive in enforcing trade rules that benefit all Americans, regardless of specific private interests.

Trade Remedy Laws

The United States needs to rethink some of its approaches to the use of trade remedy laws. Domestically, some of the companies and workers most in need of trade relief are unable to bring cases because of the cost or the difficulty of organizing a response in fragmented industries. The U.S. government has the power to launch AD/CVD cases on its own authority. This self-initiation power, however, has been allowed to atrophy and has not been used since the early 1990s. It should be revived and used more frequently when the U.S. government believes that companies and workers are being harmed by unfair trade but have been unable to bring their own cases. Where self-initiation is not warranted, the government should at least make certain that small companies are aware of the full range of Commerce Department technical assistance available to help them through the process.

At the same time, the growing use of trade remedy laws in major U.S. export markets requires rethinking the U.S. approach to trade remedy

laws in international negotiations. Historically, the United States has insisted on maintaining maximum flexibility to impose trade remedies at home, even at the cost of other negotiating objectives. But as other countries increase their use of such measures, the United States needs to give equal weight to ensuring that U.S. exports are not unreasonably disadvantaged by trade remedies in foreign markets.

The United States needs to more closely integrate its trade defense mechanisms with an offensive strategy of market opening abroad. The history of U.S. trade disputes with more protected economies has demonstrated that import restrictions do little more than buy a bit of breathing room for affected companies but do nothing to change the competitive equation. A strategy needs to be formulated for trade relief not geared solely toward adjustment by U.S. companies and workers, but also to making foreign markets more open to U.S. imports and conditioning U.S. market access on foreign governments living up to their trade obligations. This would require a more active U.S. government approach, rather than a passive stance of waiting for companies or labor unions to bring forward formal complaints.

State -Owned Enterprises and Intellectual Property Piracy

The U.S. government should develop a broad strategy for reducing the trade-distorting practices associated with many SOEs or state-backed “national champions,” under the principle of promoting competitive neutrality. The goal would be to create and enforce new disciplines that limit the ability of governments to use financial supports and discriminatory regulatory practices to enhance the competitiveness of favored companies.

WTO Dispute Settlement

The United States should work to streamline the WTO dispute settlement process. The average dispute case before the WTO takes nearly two years to complete. Although in many cases lengthy analyses are unavoidable, the United States should engage with other WTO members to find ways to accelerate the process.

The United States needs to encourage the revitalization of a WTO negotiating process for dealing with enforcement issues. As the WTO dispute system comes to operate more and more like a court process, the decisions are revealing serious issues with elements of the WTO agreements that need to be resolved through negotiations. If the core WTO agreements cannot in practice be amended, enforcement of trade commitments is likely to grow more difficult over time.